

Effective 5/9/2017

Superseded 5/4/2022

78B-6-521 Sale of property acquired by eminent domain.

(1) As used in this section:

- (a) "Condemnation" or "threat of condemnation" means:
 - (i) acquisition through an eminent domain proceeding; or
 - (ii) an official body of the state or a subdivision of the state, having the power of eminent domain, has specifically authorized the use of eminent domain to acquire the real property.
- (b)
 - (i) "Highest offer" means all material terms of the best bona fide offer received by the state or one of the state's subdivisions, including:
 - (A) purchase price;
 - (B) conditions; and
 - (C) terms of performance.
 - (ii) "Highest offer" does not mean the terms and conditions of an agreement to exchange real property or an interest in real property for other real property or an interest in real property.

(2)

- (a) If the state or one of the state's subdivisions, at the state's or the state's subdivision's sole discretion, declares real property that is acquired through condemnation or threat of condemnation to be surplus real property, it may not sell the real property on the open market unless:
 - (i) the real property has been offered for sale to the original grantor, at the highest offer made to the state or one of its subdivisions with first right of refusal being given to the original grantor;
 - (ii) the original grantor expressly waived in writing the first right of refusal on the offer or failed to accept the offer within 90 days after notification by registered mail to the last-known address; and
 - (iii) neither the state nor the subdivision of the state selling the property is involved in the rezoning of the property or the acquisition of additional property to enhance the value of the real property to be sold.
- (b) An original grantor may assign the first right of refusal within 90 days after an offer has been made under Subsection (2)(a)(i) if the right has not been waived pursuant to Subsection (2)(a)(ii).
- (c) The assignment of a right of first refusal pursuant to Subsection (2)(b) does not extend the time for acceptance of an offer as described in Subsection (2)(a)(ii).

(3)

- (a) Real property acquired through condemnation or the threat of condemnation is not considered surplus if the real property is approved for use in an exchange for other real property.
- (b) An exchange of real property for other real property is not a sale on the open market.
- (c) The first right of refusal described in Subsection (2)(a)(i) shall terminate upon an exchange of the acquired real property.

(4) This section shall only apply to property acquired after July 1, 1983.