

Effective 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) If the state or one of the state's subdivisions, at the state's or the state subdivision's sole discretion, declares real property or an easement the state or state subdivision acquires through condemnation or threat of condemnation to be surplus real property, the state or state subdivision may not sell the real property or easement at a private or public sale unless:
 - (a)
 - (i) for real property, the state or state subdivision gives the right of first refusal to the original grantor for the highest offer if, since the date of the original transfer to the state or state subdivision, the original grantor has owned real property adjacent to the transferred real property; or
 - (ii) for an easement, the state or state subdivision gives the right of first refusal to:
 - (A) if the original grantor owns the servient estate subject to the easement, the original grantor for the highest offer; or
 - (B) if a subsequent bona fide purchaser owns the servient estate subject to the easement, the subsequent bona fide purchaser for the highest offer;
 - (b) the original grantor or subsequent bona fide purchaser described in Subsection (2)(a):
 - (i) expressly waives in writing the right of first refusal on the offer; or
 - (ii) fails to accept the offer within 90 days after the day on which the original grantor or subsequent bona fide purchaser receives notification by registered mail to the original grantor's or subsequent bona fide purchaser's last-known address; and
 - (c) neither the state nor the state subdivision 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.
- (3)
 - (a) If the original grantor or subsequent bona fide purchaser has not waived the right of first refusal as described in Subsection (2)(b), an original grantor or subsequent bona fide purchaser may assign the right of first refusal.
 - (b) The assignment of a right of first refusal in accordance with Subsection (3)(a) does not extend the time for acceptance of an offer as described in Subsection (2)(b).
- (4)
 - (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 private or public sale.

- (c) The right of first refusal described in Subsection (2)(a) shall terminate upon an exchange of the acquired real property.
- (5) This section shall only apply to property acquired after July 1, 1983.

Amended by Chapter 101, 2022 General Session