

## CHAPTER 6-13

## DISPOSAL OF SURPLUS GOVERNMENT PROPERTY

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**6-13-1. Disposition of surplus property.**

The governing board of a political subdivision may sell, trade, loan, destroy, or otherwise dispose of any land, structures, equipment, or other property which the governing board has, by appropriate motion, determined is no longer necessary, useful, or suitable for the purpose for which it was acquired. No motion is required to sell, trade, loan, destroy, or otherwise dispose of consumable supplies, printed text, zoo animals, or subscriptions.

**Source:** SL 1988, ch 64, § 1; SL 1998, ch 38, § 1; SL 2005, ch 41, § 1; SL 2012, ch 48, § 2.

**6-13-2. Appraisal of value of surplus property--Filing of report.**

After the governing board of a political subdivision has made a determination of surplus property pursuant to § 6-13-1, the governing board shall appoint three real property owners of the political subdivision to appraise the value of such property. Such real property owners shall file a report of the appraisal with the fiscal officer of the political subdivision. The governing board may employ a person or persons licensed by the state to do fee appraisals in lieu of the property owners conducting an appraisal pursuant to this section.

**Source:** SL 1988, ch 64, § 2; SL 1989, ch 60.

**6-13-3. Improvements appraised separately--Equipment and property not appraised.**

Any improvements on land shall be appraised separately from the land. Equipment or supplies which are to be traded for other property, property which is to be destroyed, property which is to be transferred to another political subdivision pursuant to § 6-5-1, property being sold which was created as a result of an educational

program in a school and property which is to be sold at public auction need not be appraised pursuant to this chapter.

**Source:** SL 1988, ch 64, § 3.

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#### **6-13-4. Notice by publication of sale of surplus property--Exceptions.**

Any surplus property appraised pursuant to § 6-13-2 at five hundred dollars or less or any animal owned by a municipality for a zoo may be sold by the governing board at a private or public sale without notice. The governing board of the political subdivision shall give notice of the sale of all other surplus property, including property created as a result of an educational program in a school, by publishing a notice of the sale at least twice, with the first publication not less than ten days prior to the date of the sale. The first publication shall be in the official newspapers of the political subdivision and the second publication may be in any legal newspaper of the state chosen by the governing board of the political subdivision. If the political subdivision has no official newspaper, the first publication shall be made in a legal newspaper with general circulation in the area, to be selected by the governing board of the political subdivision. The notice shall describe the property to be sold and the time when bids will be opened. The governing board may open the bids or may designate an official and a witness to open all bids prior to the meeting of the governing board and shall state such in the notice of sale. Property to be transferred to another political subdivision pursuant to § 6-5-1 need not be advertised.

**Source:** SL 1988, ch 64, § 4; SL 1990, ch 48, § 2; SL 1990, ch 53; SL 1992, ch 50; SL 1997, ch 43, § 1.

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#### **6-13-5. Receipt of sealed bids--Sale to highest bidder--Absence of bids--Private sale.**

Sealed bids received on the surplus property shall be filed with the fiscal officer of the political subdivision and shall be opened at a governing board meeting at the time specified in the notice required by § 6-13-4, or the governing board may designate an official of the political subdivision and a witness to open all bids before the meeting of the governing board as specified in the notice required by § 6-13-4. The governing board may reject any and all bids. However, if the governing board accepts a bid, it must be the bid of the highest bidder. If no bids are received, the governing board may have the surplus property reappraised pursuant to § 6-13-2, or may, within twelve months thereafter, sell the property at private sale for not less than ninety percent of the appraised value without further publication or appraisal. If the property to be sold was created as a result of an educational program in a school, the school board may accept the highest bid or it may reject all bids and may sell the property at private sale without further publication.

**Source:** SL 1988, ch 64, § 5; SL 1995, ch 36; SL 1996, ch 50; SL 2002, ch 38, § 1.

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#### **6-13-5.1. Sale of property conveyed by a railroad.**

The provisions of §§ 6-13-4 and 6-13-5 notwithstanding, property that was conveyed to a political subdivision by a railroad may be sold to the lessee of the property or, if there is no lessee, to the owner of property abutting the property to be sold for not less than its appraised value. No vacation, change, relocation, or sale of the property as provided in this section may diminish any existing right of use enjoyed by any public utility, municipally-owned utility, or cooperative utility.

**Source:** SL 1989, ch 61.

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#### **6-13-5.2. Sale of government property at public auction or through broker--Offers--Notice.**

In lieu of receiving sealed bids as required by this chapter, a school district, municipality, or county may sell real property at public auction or by listing the property with one or more licensed real estate brokers. The governing body may accept any offer for purchase of real property. If a governing body sells real property by

public auction or through a real estate broker, the governing body shall give notice of the sale of the real property and the appraised value of the real property from the appraisal report on file with the fiscal offices of the governing body as required by § 6-13-4.

**Source:** SL 1998, ch 35, § 2; SL 2002, ch 39, § 1; SL 2018, ch 48, § 1.

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**6-13-6. Sale by auction--Notice by publication.**

In lieu of sealed bids, the governing board of a political subdivision may sell surplus property at auction. Such governing board shall advertise such auction by publication pursuant to § 6-13-4. Surplus property may be sold to the highest bidder at such auction.

**Source:** SL 1988, ch 64, § 6.

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**6-13-7. Persons prohibited from purchasing surplus property--Exception.**

No governing board member, any officer of a county, municipality, township, or school district, who has been elected or appointed, or real property owner acting as an appraiser may purchase the surplus property except at public auction.

**Source:** SL 1988, ch 64, § 7; SL 1997, ch 43, § 2.

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**6-13-8. Deposit and credit of sale revenue.**

All revenue accruing from the sale of surplus property pursuant to this chapter shall be paid into the treasury of such political subdivision and credited, at the discretion of the governing board, to the general fund, to the fund in which such property was inventoried, or to the capital outlay fund of a school district.

**Source:** SL 1988, ch 64, § 8; SL 2001, ch 35, § 1.

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**6-13-9. Sale of real property under installment contract.**

The governing board may sell any real property with a purchase price in excess of two hundred fifty dollars under an installment contract. The property may not be sold for less than ninety percent of the appraised value. Before the governing board may sell any real property under an installment contract it shall attempt to sell such property pursuant to § 6-13-5 or 6-13-6. The governing board shall determine the terms and conditions of the installment contract including the number of installments, the date of payment and the rate of interest. The purchaser may, at his option, pay the balance or any number of installments on any interest paying date.

**Source:** SL 1989, ch 62, § 1.

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**6-13-10. Acceptance of bid for installment contract.**

Immediately upon the acceptance of any bid under § 6-13-9, the purchaser shall deposit the amount of the cash payment with the fiscal officer. The fiscal officer shall provide the purchaser with a receipt for such payment and retain a copy in his office.

**Source:** SL 1989, ch 62, § 2.

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**6-13-15. Transfer of county or municipal museum collections to certain nonprofit organizations.**

Notwithstanding any other provision of law, any county or municipality may provide as a gift to any nonprofit organization that meets the requirements of this section and that is recognized as an exempt organization under § 501(c)3 of the Internal Revenue Code of 1986, as amended to January 1, 1996, any collection of historical artifacts, documents, or other materials that has been housed in a museum or other display owned by the county or municipality. The gift may include collection display and storage fixtures and related tangible personal property. To be eligible to receive the collection the nonprofit organization shall agree to:

- (1) Display or store the collection within the State of South Dakota;
- (2) Not dispose of the collection except to return the collection to the county or municipality or in accordance with mutually agreed upon collections management policies; and
- (3) Return all of the nonprofit organization's assets acquired under this section to the county or municipality upon dissolution of the nonprofit organization.

**Source:** SL 1996, ch 49.

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**6-13-16. Loaning of zoo animals.**

Any municipality or other political subdivision of the state that operates a zoo may enter into an agreement for the loaning of zoo animals with another political subdivision, nonprofit corporation, or other entity that operates a zoo accredited by the Association of Zoos and Aquariums or other appropriate institutions dealing with animal care, breeding, welfare, or wildlife education. The zoo that accepts the loaned zoo animals may be located inside or outside the State of South Dakota. The loan agreement shall be under terms and conditions agreed to by the parties to the agreement. Zoo animals loaned pursuant to this section are not deemed to be surplus property, and no motion is required to enter into an agreement for the loaning of zoo animals.

**Source:** SL 2012, ch 48, § 3.

**6-13-11. Board approval of installment contract sales.**

At the first meeting of the governing board of the political subdivision after a sale has been made pursuant to §§ 6-13-9 to 6-13-14, inclusive, the fiscal officer shall report the sale to the board together with all his proceedings. The governing board may refuse to approve the sale if the purchase price offered is, in the