

Real Property Governance Act

Fact sheet

Requirements for approval for disposal of real property

Under the *Post Secondary Learning Act*, *Government Organization Act*, *Health Act*, *Education Act*, and possibly other provincial legislation, ministerial approvals may be required to sell or lease consolidated government real property.

The requirement to obtain the Infrastructure Minister's notice to accept or decline the Offer to Transfer under the *Real Property Governance Act* (the RPG Act) comes into effect on Royal Assent of the Bill.

Scope of consolidated entities under the RPG Act

Consolidated entities that are listed in the Government of Alberta's Financial statements, which include Departments, Government Organizations, School Jurisdictions and Charter Schools, Post-secondary Institutions, and Alberta Health Services (AHS) and Other Health Entities.

For clarity, the Act does not apply to the Office of the Legislative Assembly and Offices of the Legislature, Regulated Funds, or Government Business Enterprises.

Scope of the RPG Act: inclusions and exclusions

The RPG Act applies to all departments and the consolidated entities, listed as a government organization in the Government of Alberta's annual financial statement and is subject to exceptions listed in Section 7 (6) of the RPG Act. Examples of when entities or land are not subject to Sections of the RPG Act are:

- Land that does not have a Certificate of Title under the *Land Titles Act* however, once a title is created the RPG Act will apply.
- Land currently being used by departments or consolidated entities for program purposes are not subject to Section 7 regarding Offer to Transfer.
- Caveats registered on land titles that restricts use of the land will be honoured.

Regulations are being developed to consider other potential exemptions to s.7 such as land held in land trust.

The RPG Act notes "Departments" and "Government Organizations." This includes:

- All Ministries
- Government organizations (many of whom do not own land), such as the Alberta Energy Regulator, the Alberta Indigenous Opportunities Corporation, and Invest Alberta.
- All school jurisdictions
- All post-secondary institutions
- AHS and the Health Quality Council

It does not include government business enterprises such as ATB, AGLC and others identified as "Government Business Enterprises".

Distinguishing offer to transfer from right of first refusal

The Offer to Transfer is the same as a Right of First Refusal, as the owning entity is obligated to provide Infrastructure notice and an offer to transfer at net book value transfer. This functions as an option to transfer at a specific price. Infrastructure must specifically refuse the transfer offer for the owning entity to sell, offer for sale, transfer, or otherwise dispose of the property to other parties.

Land owned by departments are titled to “His Majesty the King in Right of Alberta”, so moving land between departments is not a sale, it’s a transfer. The Offer to transfer wording is used in the RPG Act to more accurately reflect the process between departments as well as between a department and a consolidated entity (i.e., a right to transfer at net book value).

Section 7(2) offer to transfer: assessment process

The assessment has two components Repurposing and Disposal, which are completed prior to Infrastructure accepting the Offer to Transfer a property.

The repurposing assessment will circulate the surplus property to all departments and consolidated entities to identify current or future program uses. For efficiency, this circulation may be coordinated with ministerial disposal or lease approvals required under other Acts.

The disposal assessment will determine if the offer to transfer will be accepted by Infrastructure with sale proceeds being deposited into the General Revenue Fund or rejected and the property can be disposed by the owning entity with sale proceeds retained by the owning entity or deposited into a dedicated revenue fund.

The assessments will be guided by established government-wide priorities and principles.

Section 7 (6) exceptions to the RPG Act

The Inventory requirements in Section 5 and 6 of the RPG Act apply to all land owned or leased by departments and consolidated entities. There are no exceptions to the Inventory sections other than owned land must have a Certificate of Title, as that determines legal ownership in Alberta and is required to sell, lease, or otherwise dispose of property.

The exceptions listed in Section 7 (6) are exceptions to the Offer to Transfer process only. Entities or land that are outside of the RPG Act’s scope are not listed as exceptions. The Minister may create regulations to amend or create exceptions to sections of the Act.

Purposes of the Act

The purposes of the Act, as outlined in Section 2, are:

- to establish and manage a centralized system for collecting and reporting inventory information for all real property in Alberta;
- to develop a consolidated inventory records management system involving departments and consolidated entities;
- to allow input of government asset data in a consistent and comprehensive manner;
- to increase government awareness of a broader portfolio of real property;
- to inform decisions on priority capital investments and generating revenues from disposals of real property;
- to ensure proper assessment of real property and to determine better purposes for retaining or transferring real property to meet the priorities of the Government of Alberta; and
- to facilitate consistent government decision making and effective management with respect to real property.

Lands that are not owned by the consolidated entity

RPG only applies to government’s consolidated entities. It doesn’t apply to non-consolidated entities such as:

- Covenant-owned properties.
- Housing management bodies.
- Hope Mission Society, which purchased government land at fair market value in 2022.

Offer to transfer process for consolidated vs non-consolidated entities

For consolidated entities, the Offer to Transfer process begins when the owner decides it no longer needs a property for specific program use. The Offer to Transfer steps are:

1. Owner decides to surplus the property.
2. Government-wide assessment is completed for repurposing or disposal based on Ministerial Committee identified priority GOA uses.
3. If the Offer to Transfer is exercised following analysis, a transfer to Infrastructure is completed.
4. If the Offer to Transfer is not exercised, the owner can dispose under the appropriate process.

For non-consolidated owners, the process does not apply when they declare property surplus to their program needs.

Donated land under RPG

A. Lands donated for a specific use can be honoured through an Offer to Transfer exemption or registering a caveat to restrict use to the intended donated use.

For Foundations' donations made to support a healthcare program, caveats can be used to ensure continued healthcare use.

- If the property is sold, a caveat can ensure an amount like the donation is redirected from the sale proceeds to continuing healthcare programs.
- If the property is repurposed, a caveat can ensure an alternative property, like the donation value, is provided to continuing healthcare programs.

Current practices for schools

Currently, buildings are transferred to school divisions when the construction of a school is completed. Typically, the associated land is a designated municipal or school reserve.

- When school land is no longer needed by the school division, it is typically sold or repurposed to a different school board.
- Lands designated as school reserves are typically sold at fair market value to the municipality under the *Municipal Government Act*.
- Land that is not designated a school reserve is typically sold to the public at fair market value.
- The proceeds of school land sales are retained by the school divisions.

Application of Real Property Governance in schools

The governance would apply to school land under a few situations:

- School land would be included in the consolidated land inventory management system.
- School land that is no longer needed by a school division and is being sold would trigger the repurposing or disposal assessment process.

Inventory of properties held by primary consolidated entities

The primary consolidated entities hold properties as follows:

	Number of Properties	Net Book Value (Billions)	Total Replacement Value (Billions)
School Boards	1,610 Schools and 5,786 Modulars	\$9.6	\$31.5
Regional Health Authorities	510 Owned Facilities	\$10.3	\$26.0
Post Secondary Institutions	716 Buildings on 60 Campuses	\$8.7	\$20.0
Infrastructure	1,512 Buildings on 1,270 Sites	\$3.6	\$12.3
Alberta Social Housing Corp.	2,761 Buildings	\$1.4	\$5.5

*Sources: Infrastructure Submission 2023-24 Committee of Supply; 2022-2023 Ministry Annual Reports; Alberta Land Titles Report October 2023

Application of Real Property Governance to post secondary institution's land trusts

Post Secondary Institution's (PSI) Land Trusts will be reviewed through additional consultation with Advanced Education on land currently owned by Land Trusts. The aim is to honour the intent of PSI Land Trusts' autonomy.

Currently, land trusts can create revenue through development and long-term leasing strategies. They do not currently sell lands.

Recommendation of the Mackinnon Blue-Ribbon Panel

The recommendation is provided on page 57 of the 2019 Blue Ribbon Panel on Alberta's Finances:

"Recommendation 16: The Government of Alberta should redefine its inventory of land assets to include the broader public sector and create a definitive policy to clearly define surplus assets and a process for disposal of surplus assets. Providing an increased ability to core government and the broader public sector to dispose of surplus assets can act as an offset to the capital cost of new investments or provide revenue for the province".

Key benefits of the RPG Act

The Real Property Governance Act provides the following key benefits:

- Creating a single consolidated inventory;
- Increasing portfolio awareness to inform investment and disposal decisions;
- Assessing underutilized and surplus property from a government-wide perspective; and
- Improving consistency and management of the portfolio.