

**§ 263.005. Use by Public Utility or Common Carrier**

If, at the time real property, or an interest in real property, is sold, leased, or exchanged under this subchapter, a public utility or common carrier that has the right of eminent domain is using the property for right-of-way and easement purposes, the sale, lease, exchange, conveyance, and surrender of possession of the property or interest are subject to the right of and continued use by the public utility or common carrier.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

**§ 263.006. Exchange of Real Property**

(a) The commissioners court of a county, by an order entered in its minutes, may authorize the exchange of an interest in real property owned by the county for an interest in real property owned by an individual, private partnership or corporation, or other private entity, to be used for one or more public purposes for which a county otherwise may acquire land. The exchange transaction may include a partial cash payment.

(b) Except as provided by Subsection (d), before the commissioners court exchanges an interest in real property under this section, notice that the county will consider offers for an exchange of the interest in real property must be published in English in a newspaper of general circulation in the county in which the real property is located and in the county that owns the interest if not the same county. The notice must be published once a week for three consecutive weeks before the date of the exchange, with the date of the first publication being before the 20th day before the date of the exchange.

(c) The county shall obtain an appraisal of the fair market value of the interest in real property owned and being exchanged by the county, and the appraisal is conclusive for purposes of this section of the value so determined. An exchange may not be made under this section for a total consideration, including cash and interest in real property, that is less than the fair market value of the interest in real property being exchanged by the county. The commissioners court may reject any and all offers made under this section.

(d) An exchange of an interest in real property originally acquired by the county for street, right-of-way, or easement purposes as consideration for the acquisition of another interest in real property for street, right-of-way, or easement purposes is not subject to the notice requirements of Subsection (b) but is

subject to the appraisal required by Subsection (c), whether or not the exchange transaction includes a partial cash payment.

(e) This section does not apply to the exchange of an interest in real property owned by a county for an interest in real property owned by the United States, this state, or a municipality or other political subdivision of this state.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

**§ 263.007. Sale or Lease of Real Property Through Sealed-Bid Procedure**

(a) The commissioners court of a county may adopt a procedure by which the county may sell or lease through a sealed-bid or sealed-proposal procedure any real property, including space in a building, owned by the county.

(b) The procedure must include a requirement that the county publish, before a sale or lease is made, a notice of its intent to sell or lease, as appropriate, the real property. The notice must:

(1) be published in a newspaper of general circulation in the county the commissioners court represents and, if the real property is located in another county, in a newspaper of general circulation in that other county;

(2) be published on two dates, with the date of the second publication occurring before the 14th day before the date the award of the sale or lease is made;

(3) include a description of the real property, including its location; and

(4) include a description of the procedure by which sealed bids or sealed proposals for the sale or lease may be submitted.

(c) Before selling property under this section, the commissioners court shall:

(1) obtain an appraisal of the property's fair market value; and

(2) determine a minimum bid amount, based on the appraisal.

(d) Under the procedure, the commissioners court may reject any and all bids submitted.

(e)(1) The commissioners court of a county may lease real property owned or controlled by the county that was formerly owned or controlled by the Texas Department of Mental Health and Mental Retardation to a federal, state, or local government entity for any

purpose or to a nonprofit organization that is exempt from federal taxation under Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3)), to conduct health and human service activities or such other activities which the commissioners court finds to be in the public interest, without using the sealed-bid or sealed-proposal process described in Subsection (a) and without using any other competitive bidding process which would otherwise be required by law.

(2) The commissioners court of a county with a population of one million or more that contains two or more municipalities with a population of 250,000 or more may lease real property owned or controlled by the county to a for-profit entity to conduct health and human service activities which the commissioners court finds to be in the public interest, without using the sealed-bid or sealed-proposal process described in Subsection (a) and without using any other competitive bidding process which would otherwise be required by law.

(3) Except as provided by Subdivision (4), a commissioners court of a county that chooses to lease under this subsection shall declare its intent to do so through written notice posted in the same place and manner as the commissioners court posts its regular meeting agenda not later than 30 days prior to the beginning of the lease period. In setting the terms and conditions of the lease, including but not limited to the amount of the lease payment, the commissioners court may consider local business custom regarding leases and the reasonable market value of the leasehold, but the commissioners court is not bound thereby and may also consider the extent to which the provision of services or the other activities to be performed by the lessee will benefit the public. This subsection does not limit the ability of a commissioners court to enter into interlocal agreements, contracts, or any other arrangement permitted by law.

(4) The 30-day posting period provided by Subdivision (3) does not apply to a lease under Subdivision (1) or (2) if:

(A) the duration of the lease is 95 days or less; and

(B) the lease is to provide short-term emergency disaster relief services to persons as a result of a disaster in the county or to evacuees from another area as a result of an emergency evacuation from that area.

(f) The procedure authorized by this section is an alternative procedure to the procedure authorized by Section 272.001.

Added by Acts 1989, 71st Leg., ch. 1, § 60(a), eff. Aug. 28, 1989. Amended by Acts 1990, 71st Leg., 6th C.S., ch. 13, § 1, eff. June 14, 1990; Acts 1995, 74th Leg., ch. 145, § 1, eff. May 19, 1995; Acts 1999, 76th Leg., ch. 14, § 1, eff. Sept. 1, 1999; Acts 2007, 80th Leg., ch. 138, § 1, eff. May 18, 2007.

§ 263.008. Broker Agreements and Fees for the Sale of Real Property

(a) In This Section, "broker" means a person licensed as a broker under Chapter 1101, Occupations Code.

(b) The commissioners court of a county may contract with a broker to sell a tract of real property that is owned by the county.

(c) The commissioners court of a county may pay a fee if a broker produces a ready, willing, and able buyer to purchase a tract of real property.

(d) If a contract made under Subsection (b) requires a broker to list the tract of real property for sale for at least 30 days with a multiple-listing service used by other brokers in the county, the commissioners court on or after the 30th day after the date the property is listed may sell the tract of real property to a ready, willing, and able buyer who is produced by any broker using the multiple-listing service and who submits the highest cash offer.

(e) The commissioners court may sell a tract of real property under this section without complying with the requirements for conducting a public auction, including the requirements prescribed by Section 263.001.

Added by Acts 1991, 72nd Leg., ch. 421, § 1, eff. Aug. 26, 1991. Amended by Acts 1999, 76th Leg., ch. 132S, § 1, eff. June 18, 1999; Acts 2003, 78th Leg., ch. 1276, § 14A.790, eff. Sept. 1, 2003.

SUBCHAPTER B. DISPOSITION OF CERTAIN REAL OR PERSONAL PROPERTY

§ 263.051. Airport Land

(a) The commissioners court of a county may lease to any person any land acquired, by a purchase or gift, by the county for an airport and may lease any facilities on that land, unless the lease is prohibited by the terms of the grant of the land to the county. The commissioners court shall determine the conditions of the lease.

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