Article - Transportation

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§8–309.

(a) The purpose of this section is to return unneeded land to the tax rolls of the counties and to make this land available for use by a county or municipality for any transportation purpose.

(b) (1) Notwithstanding any other statute to the contrary, if land acquired under this subtitle is not needed for present or future State, county, or municipal transportation purpose or other public purposes, the Administration shall dispose of the land as soon as practicable after the completion or abandonment of the project for which the land was acquired.

(2) (i) If the land is from a project that was abandoned, and the Secretary determines that the property is no longer needed for any State transportation purpose, a county or municipality may acquire the land for a transportation purpose, with the approval of the Secretary, on payment of an amount equal to the lesser of:

1. The appraised value of the land; or

2. The consideration that the Administration or Commission originally paid for the land, plus simple interest at the fair market rate calculated from the time of acquisition to the time of disposition and administrative costs.

(ii) If the land is not needed for a county or municipal transportation purpose, the person from whom the land was acquired or the successor in interest of that person has the right to reacquire the land, on payment of an amount equal to the lesser of:

1. The appraised value of the land; or

2. The consideration that the Administration or Commission originally paid for the land, plus simple interest at the fair market value calculated from the time of acquisition to the time of disposition and administrative costs.

(iii) If neither of these rights is exercised, the land shall be disposed of under this section in the same manner as if the land were from a project that has been completed or otherwise as permitted by this section.

(c) (1) (i) As to land from a completed project:

1. The Administration shall notify the person from whom the land was acquired, or the successor in interest of that person, within 30 days after making a determination that the land is not needed by the Administration and that the land is available for reacquisition;

2. Within 5 years from the date the land was acquired, the person from whom the land was acquired, or the successor in interest of that person, may reacquire the land, on payment of an amount equal to the consideration that the Administration or Commission originally paid for the property; and

3. After 5 years from the date the land was acquired, the person from whom the land was acquired, or the successor in interest of that person, has the right to reacquire the land at the current market value.

(ii) If the right to reacquire the land as provided in subparagraph (i) of this paragraph is not exercised within 8 months after the Administration provides the notice that the land is available, the Administration shall sell the land at public auction as provided in this subsection.

(2) Before the sale:

(i) The Administration shall appraise the land; and

(ii) If the Administration believes that the land has a value of more than $25,000, the land also shall be appraised by at least one independent, qualified real estate appraiser.

(3) The Administration shall notify the public of the sale by:

(i) Posting a notice of the sale on the land at least 2 weeks before the sale; and

(ii) Publishing the notice for 2 consecutive weeks in a newspaper that is published or has general circulation in the county in which the property is located.

(4) The notice of the sale shall:

(i) Describe generally the property to be sold;

(ii) State the date, time, and place of the sale; and

(iii) Contain any other information that the Administration considers proper.

(5) The sale shall be held on or near the land and may be conducted by Administration personnel.

(6) At the conclusion of the sale, the Administration's representative in charge of the sale shall announce publicly the name of the highest bidder and the amount of the bid. If the highest bid does not approximate the appraised value of the land, the representative may reject all bids and cancel the sale.

(7) The results of the sale shall be recorded and, if the highest bid was

accepted by the Administration's representative, presented to the Administrator for approval or rejection. If the Administrator approves the sale, the Administrator may execute a deed conveying the land to the buyer.

(8) If there is no bidder for the land, if all bids are rejected and the sale canceled as provided in paragraph (6) of this subsection, or if the Administrator considers all bids inadequate, the land shall be reoffered for sale within 6 months on the same terms and in the same manner as the original sale.

(9) At the second sale, if there is no bidder for the land, if all bids are rejected and the sale canceled as provided in paragraph (6) of this subsection, or if the Administrator considers all bids inadequate, the Administrator may negotiate a sale of the land. If the Board of Public Works approves the negotiated sale and the deed, the Administrator may execute a deed conveying the land to the buyer.

(d) As to any land from a completed project, if the Administration considers the land to be too small or otherwise unsuitable for private use or development, the Administration shall establish a plan of disposal for that land. If the Board of Public Works approves the plan and the deed, the Administrator may execute a deed conveying the land under the plan.

(e) (1) Notwithstanding any other provision of this section, the Administration may convey land from an abandoned or completed transportation project by exchanging the land for privately or publicly owned land of substantially equal value when the land to be acquired by the exchange is needed for a current State highway purpose that has been identified within the current consolidated transportation program as approved by the General Assembly, or has otherwise received prior legislative approval for planning.

(2) In the case of an abandoned or completed project, the person from whom the land was acquired, or the successor in interest of that person, shall have the first right of refusal to reacquire the land, except that the offer and acceptance shall be as follows:

(i) The Administration shall notify the person from whom the land was acquired, or the successor in interest of that person, in writing, by certified mail, return receipt requested of the proposed exchange and the value of the property;

(ii) Within 90 days from the date of the notice, the person from whom the land was acquired, or the successor in interest of that person, shall notify the Administration in writing of its intent to exercise its right to reacquire the land; and

(iii) Within 90 days from the date of notifying the Administration of its intent to reacquire the land, the person from whom the land was acquired, or the successor in interest of that person, must tender payment of an amount equal to the lesser of:

1. The appraised value of the land; or

2. The consideration that the Administration or Commission originally paid for the land, plus simple interest at the fair market rate calculated from the time of acquisition to the time of disposition and administrative costs.

(3) The person from whom the land was acquired, or the successor in interest of that person, is deemed to have waived its right of first refusal if the person or the successor in interest fails to follow the procedures set forth in paragraph (2) of this subsection.

(4) In the case of a completed project or an abandoned project for which the right of first refusal was waived, the procedure for the exchange shall be as follows:

(i) If the exchange is not one proposed by a county or municipality, the Administration shall:

1. Notify by registered mail any affected county or municipality of the offer for an exchange of a parcel;

2. Allow 60 days after notification for any affected county or municipality to make a request to acquire the parcel or part of the parcel located within the borders of the county or municipality and for the Administration to consider any such request; and

3. If any affected county or municipality makes an offer to acquire the parcel, or part thereof within that jurisdiction's borders, that is equal to or greater than, or includes land of an equal or greater value than, the appraised value of the parcel or applicable portion thereof, the Administration shall accept that offer;

(ii) Before making an exchange under this subsection, the exchange must be approved by the Board of Public Works; and

(iii) If the Administrator and the Board of Public Works approved the terms and conditions of the exchange and all deeds, the Administrator may execute and accept deeds effecting the conveyances necessary to complete the exchange.

(5) Before the exchange:

(i) The Administration shall appraise all parcels of land to be exchanged; and

(ii) If the Administration believes that any parcel of land in the exchange has a value of more than $25,000, the parcels of land also shall be appraised by at least one independent, qualified real estate appraiser.

(6) In the event that the properties to be exchanged are determined to be of unequal value, the Administrator may agree to accept or pay an amount necessary

to substantially equalize the value of land conveyed by the State.

(7) The owner of land exchanged under this subsection is not entitled to first right of refusal if the exchanged land is later offered for sale by the State.

(f) (1) Except as required by this section for property from an abandoned project, this section does not prevent the Administration from conveying any of its surplus land to an adjacent property owner:

(i) As all or part of the consideration for a right-of-way transaction; or

(ii) If the Administration believes that public auction of the surplus land will affect adversely the value or use of the surplus land, on a negotiated sale with a price based on the appraised value of the land.

(2) If the Administration believes that any land proposed for sale under this subsection has a value of more than $25,000, the land shall be appraised by at least one independent, qualified real estate appraiser.

(3) If the Board of Public Works approves the sale and the deed, the Administrator may execute a deed conveying the land to the adjacent property owner.

(g) Except as required by this section for property from an abandoned project, this section does not prevent the Administration, with the approval of the Board of Public Works, from conveying any of its surplus land to any State or local agency that:

(1) Needs the property for a public purpose; and

(2) Pays the Administration an amount equal to the lesser of:

(i) The appraised value of the land; or

(ii) The consideration that the Administration or Commission originally paid for the land, plus simple interest at the fair market rate calculated from the time of acquisition to the time of disposition and administrative costs.

(h) (1) If the land is not to be used for any other public purpose by a State or local agency, the person from whom unimproved land was acquired shall have the first right of refusal to lease back the property at the fair market rent established by the acquiring agency.

(2) (i) The person from whom an owner-occupied residential property was acquired shall have the first right of refusal to lease back the property at the fair market rent established by the acquiring agency.

(ii) On the exercise of the right to lease back the property, the period of eligibility for an additional payment as authorized under § 12-202 of the Real

Property Article shall be calculated as provided in § 12-203(1) of the Real Property Article.

(i) (1) (i) In this subsection, "former owner" means only that person from whom the State acquired the land or who executed the instrument conveying the land to the State.

(ii) "Former owner" includes a decedent's:

1. Surviving spouse, as defined in § 1-202 of the Estates and Trusts Article; and

2. Child, as defined in § 1-205 of the Estates and Trusts Article.

(2) Notwithstanding any other law to the contrary, the Administration may, after giving notice to the Maryland Department of Planning and with the approval of the Board of Public Works, convey any of its surplus land if the conveyance will promote economic development in the State of Maryland.

(3) Prior to conveying land in accordance with paragraph (2) of this subsection, the Administration shall notify the former owner of that person's right to reacquire the land.

(4) Within 45 days after the notice to the former owner by the Administration that the land is not needed and is available for reacquisition, the former owner may notify the Administration of its intent to exercise the right to reacquire the land in accordance with this subsection.

(5) Within 45 days of the notice to the county or municipal corporation by the Administration that the land is not needed and is available for purchase, the county or municipal corporation in which the property is located may notify the Administration of its interest in purchasing the land.

(6) The right of a former owner to reacquire land under this subsection:

(i) Is not assignable and may be transferred only as a result of the death of a former owner;

(ii) Is null and void unless the person or persons exercising the right tender the required payment within 60 days of the approval of the sale by the Board of Public Works to that person or persons; and

(iii) Shall take precedence over the right of the county or municipal corporation to acquire the land in the event both the former owner and the county or municipal corporation notify the Administration of their intent to purchase.

(7) (i) The Administration may negotiate the sale of land to be conveyed

under this section.

(ii) In determining the consideration to be paid for the land, the Administration shall consider:

1. The appraised value of the land; and

2. The economic benefits to the State of the proposed development of the property.

(iii) The consideration may include payment in cash or exchange of privately or publicly owned land.

(8) The notification and disposition provisions contained in this section do not apply to a conveyance made under this subsection.

(9) Land conveyed under this subsection shall be subject to local zoning laws.

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