
**By: Chairman, Commerce and Government Matters Committee (Departmental -
Transportation)**

Introduced and read first time: February 10, 1997
Assigned to: Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Highways - Sale of Land Not Needed for Public Purposes - Promotion of Economic**
3 **Development**

4 FOR the purpose of authorizing the State Highway Administration, subject to approval
5 by the Board of Public Works, to convey surplus land if the conveyance will promote
6 economic development; requiring the Administration to consider certain factors in
7 determining the consideration to be paid for land conveyed under this Act;
8 providing for exceptions to certain notification and disposition requirements;
9 making stylistic changes; and generally relating to the conveyance of surplus land by
10 the State Highway Administration.

11 BY repealing and reenacting, with amendments,
12 Article - Transportation
13 Section 8-309
14 Annotated Code of Maryland
15 (1993 Replacement Volume and 1996 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - Transportation**

19 8-309.

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

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

28 (2) (i) If the land is from a project that was abandoned, and the Secretary
29 determines that the property is no longer needed for any State transportation purpose, a

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1 county or municipality may acquire the land for a transportation purpose, with the
2 approval of the Secretary, on payment of an amount equal to the lesser of:

3 1. The appraised value of the land; or

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

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

11 1. The appraised value of the land; or

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

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

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

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

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

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

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

34 (2) Before the sale:

35 (i) The Administration shall appraise the land; and

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

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

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

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

5 (4) The notice of the sale shall:

6 (i) Describe generally the property to be sold;

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

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

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

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

16 (7) The results of the sale shall be recorded and, if the highest bid was
17 accepted by the Administration's representative, presented to the Administrator for
18 approval or rejection. If the Administrator approves the sale, the Administrator may
19 execute a deed conveying the land to the buyer.

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

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

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

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

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

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

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

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

15 1. The appraised value of the land; or

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

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

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

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

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

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

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

37 (ii) Before making an exchange under this subsection, the exchange
38 must be approved by the Board of Public Works[.]; AND

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

4 (5) Before the exchange:

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

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

10 (6) In the event that the properties to be exchanged are determined to be of
11 unequal value, the Administrator may agree to accept or pay an amount necessary to
12 substantially equalize the value of land conveyed by the State.

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

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

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

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

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

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

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

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

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

33 (i) The appraised value of the land; or

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

37 (h) (1) If the land is not to be used for any other public purpose by a State or
38 local agency, the person from whom unimproved land was acquired shall have the first

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1 right of refusal to lease back the property at the fair market rent established by the
2 acquiring agency.

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

6 (ii) On the exercise of the right to lease back the property, the period
7 of eligibility for an additional payment as authorized under § 12-202 of the Real Property
8 Article shall be calculated as provided in § 12-203(1) of the Real Property Article.

9 (I) (1) NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, THE
10 ADMINISTRATION MAY, AFTER GIVING NOTICE TO THE MARYLAND OFFICE OF
11 PLANNING AND WITH THE APPROVAL OF THE BOARD OF PUBLIC WORKS, CONVEY
12 ANY OF ITS SURPLUS LAND IF THE CONVEYANCE WILL PROMOTE ECONOMIC
13 DEVELOPMENT IN THE STATE OF MARYLAND.

14 (2) (I) THE ADMINISTRATION MAY NEGOTIATE THE SALE OF LAND
15 TO BE CONVEYED UNDER THIS SECTION.

16 (II) IN DETERMINING THE CONSIDERATION TO BE PAID FOR THE
17 LAND, THE ADMINISTRATION SHALL CONSIDER:

18 1. THE APPRAISED VALUE OF THE LAND; AND

19 2. THE ECONOMIC BENEFITS TO THE STATE OF THE
20 PROPOSED DEVELOPMENT OF THE PROPERTY.

21 (III) THE CONSIDERATION MAY INCLUDE PAYMENT IN CASH OR
22 EXCHANGE OF PRIVATELY OR PUBLICLY OWNED LAND.

23 (3) THE NOTIFICATION AND DISPOSITION PROVISIONS CONTAINED IN
24 THIS SECTION DO NOT APPLY TO A CONVEYANCE MADE UNDER THIS SUBSECTION.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 1997.