

(PRE-FILED)

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Requested: November 15, 2004

Introduced and read first time: January 12, 2005

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Land Preservation and State Asset Protection Act**

3 FOR the purpose of requiring the Department of Planning to provide notice regarding
4 certain excess real property to the presiding officers, certain committees, and
5 delegations of the General Assembly; requiring units of State government to
6 consider certain factors when determining how to classify certain property;
7 requiring units to maintain public records about determinations made about
8 certain property and to prepare and submit a certain list to the General
9 Assembly each year; requiring local governments or units of State government
10 to submit an expression of interest in certain excess real property within a
11 certain time period; requiring the Department of Planning to have a certain
12 assessment and appraisal done for certain excess real property; requiring the
13 Department to develop a certain written analysis and provide a copy of the
14 analysis to certain entities; prohibiting the Board of Public Works from
15 declaring certain excess real property as surplus until it provides a certain
16 notice to certain entities; requiring the Department of Planning to maintain a
17 current, updated list of certain real property; prohibiting the Board from selling,
18 leasing, transferring, exchanging, granting, or otherwise disposing of certain
19 surplus property until a certain time period has elapsed, or in the case of certain
20 other property, until the General Assembly takes certain action; requiring the
21 Board to comply with certain requirements under the State procurement law
22 when disposing of certain surplus real property; making a stylistic change; and
23 generally relating to the authority and responsibilities of the Department of
24 Planning and the Board of Public Works with regard to the disposition of certain
25 State lands.

26 BY repealing and reenacting, with amendments,
27 Article - State Finance and Procurement
28 Section 5-310, 5-504, and 10-305

1 Annotated Code of Maryland
2 (2001 Replacement Volume and 2004 Supplement)

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4 Article - State Finance and Procurement
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6 Annotated Code of Maryland
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8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
9 MARYLAND, That the Laws of Maryland read as follows:

10 **Article - State Finance and Procurement**

11 5-310.

12 (a) (1) Each unit of the State government shall notify the Department IN
13 WRITING of:

14 [(1)] (I) any real property that is in excess of the needs of the unit; or

15 [(2)] (II) any substantial change to any real property owned by the State.

16 (2) WHEN IT CONSIDERS WHETHER ANY REAL PROPERTY IS IN EXCESS
17 OF THE NEEDS OF THE UNIT, THE UNIT SHALL INCLUDE IN ITS ASSESSMENT THE
18 SOCIAL, COMMUNITY, AND ENVIRONMENTAL VALUE OF THE REAL PROPERTY.

19 (3) EACH UNIT SHALL MAINTAIN A PUBLIC RECORD TO SUPPORT ITS
20 DETERMINATION WHETHER OR NOT ANY REAL PROPERTY IS IN EXCESS OF THE
21 NEEDS OF THE UNIT.

22 (B) (1) EACH YEAR, NO LATER THAN 60 DAYS BEFORE THE GENERAL
23 ASSEMBLY CONVENES FOR ITS REGULAR SESSION, EACH UNIT SHALL SUBMIT A
24 REPORT TO THE DEPARTMENT THAT INCLUDES A LIST OF ANY REAL PROPERTY
25 THAT, SINCE THE DATE OF THE UNIT'S LAST REPORT, THE UNIT CONSIDERED BUT
26 DID NOT NOTIFY THE DEPARTMENT AS PROPERTY IN EXCESS OF THE NEEDS OF THE
27 UNIT.

28 (2) THE DEPARTMENT SHALL CONSOLIDATE THE REPORTS SUBMITTED
29 BY THE UNITS AND DISTRIBUTE A COPY OF THE CONSOLIDATED REPORT:

30 (I) SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO
31 THE GENERAL ASSEMBLY; AND

32 (II) ON REQUEST, TO THE PUBLIC.

33 [(b)] (C) For any real property identified under subsection (a) of this section,
34 the Department shall:

1 (1) NOTIFY:

2 (I) THE SENATE BUDGET AND TAXATION COMMITTEE AND THE
3 HOUSE APPROPRIATIONS COMMITTEE; AND

4 (II) THE GENERAL ASSEMBLY SENATE AND HOUSE DELEGATIONS
5 FOR THE JURISDICTION IN WHICH THE PROPERTY IS LOCATED;

6 (2) NOTIFY THE PRESIDING OFFICERS OF THE GENERAL ASSEMBLY AND
7 THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE AND
8 THE HOUSE ENVIRONMENTAL MATTERS COMMITTEE, IN THE CASE OF THE
9 FOLLOWING PROPERTY THAT THE STATE OWNS OR IN WHICH IT HAS AN INTEREST:

10 (I) PROPERTY UNDER PROGRAM OPEN SPACE UNDER TITLE 5,
11 SUBTITLE 9 OF THE NATURAL RESOURCES ARTICLE;

12 (II) PROPERTY UNDER THE RURAL LEGACY PROGRAM UNDER
13 TITLE 5, SUBTITLE 9A OF THE NATURAL RESOURCES ARTICLE;

14 (III) PUBLIC PARK LAND AND RECREATIONAL AREAS UNDER TITLE
15 5, SUBTITLE 10 OF THE NATURAL RESOURCES ARTICLE;

16 (IV) WILDLAND AND OPEN AREAS UNDER TITLE 5, SUBTITLE 12 OF
17 THE NATURAL RESOURCES ARTICLE;

18 (V) HERITAGE CONSERVATION AREAS UNDER TITLE 5, SUBTITLE 15
19 OF THE NATURAL RESOURCES ARTICLE; AND

20 (VI) FOREST CONSERVATION AREAS UNDER TITLE 5, SUBTITLE 16
21 OF THE NATURAL RESOURCES ARTICLE;

22 [(1)] (3) study the proper disposition of the property;

23 [(2)] (4) determine whether any local government or unit of the State
24 government is interested in the property; [and]

25 (5) IN THE CASE OF PROPERTY SPECIFIED UNDER PARAGRAPH (2) OF
26 THIS SUBSECTION, HAVE THE DEPARTMENT OF NATURAL RESOURCES OR AN
27 INDEPENDENT ENTITY ACTING ON THE DEPARTMENT'S BEHALF CONDUCT AN
28 ASSESSMENT OF THE ENVIRONMENTAL, ECOLOGICAL, AND OTHER SIGNIFICANT
29 FEATURES OF THE PROPERTY;

30 (6) HAVE THE DEPARTMENT OF GENERAL SERVICES ENGAGE AT LEAST
31 TWO INDEPENDENT ENTITIES TO APPRAISE THE PROPERTY; AND

32 [(3)] (7) (I) DEVELOP A WRITTEN ANALYSIS OF ITS FINDINGS AND
33 DETERMINATIONS UNDER THIS SECTION;

34 (II) make an appropriate recommendation to the using unit of the
35 State government and to the Board of Public Works; AND

1 (III) PROVIDE A COPY OF THE ANALYSIS AND RECOMMENDATION TO
2 THE USING UNIT OF STATE GOVERNMENT, THE BOARD OF PUBLIC WORKS, AND THE
3 ENTITIES SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION.

4 (D) WITHIN 60 DAYS OF THE DATE THE DEPARTMENT MAKES ITS
5 RECOMMENDATION UNDER SUBSECTION (C)(7) OF THIS SECTION, A LOCAL
6 GOVERNMENT OR UNIT OF THE STATE GOVERNMENT SHALL SUBMIT TO THE BOARD
7 OF PUBLIC WORKS ITS INDICATIONS OF INTEREST IN ACQUIRING ANY REAL
8 PROPERTY THAT IS THE SUBJECT OF A RECOMMENDATION.

9 5-504.

10 (a) The Department shall be a repository and clearinghouse for information
11 about real property available for public use.

12 (b) The Department shall correlate information concerning real property
13 owned by the State or any political subdivision of the State.

14 (c) (1) The Department shall maintain a CURRENT, UPDATED list of real
15 property owned by the State or any political subdivision of the State.

16 (2) The list shall include pertinent details concerning size, facilities, and
17 value.

18 (3) A copy of the list and any related information shall be provided to any
19 State agency and the General Assembly upon request.

20 5-505.

21 (a) The Department shall prepare and periodically revise inventory lists of:

22 (1) the natural resources of the State; and

23 (2) major public works and private facilities that are important to the
24 development of the State as a whole.

25 (b) A copy of the inventory list shall be provided to any State agency and the
26 General Assembly upon request.

27 10-305.

28 (a) (1) [Any] SUBJECT TO PARAGRAPHS (2), (3), AND (4) OF THIS
29 SUBSECTION, ANY real or personal property of the State or a unit of the State
30 government may be DECLARED AS SURPLUS AND sold, leased, transferred,
31 exchanged, granted, or otherwise disposed of:

32 (i) to any person, to the United States or any of its units, or to any
33 unit of the State government, for a consideration the Board decides is adequate; or

34 (ii) to any county or municipal corporation in the State subject to
35 any conditions the Board imposes.

1 (2) THE BOARD MAY NOT DECLARE AS SURPLUS ANY REAL PROPERTY
2 OF THE STATE OR A UNIT OF THE STATE GOVERNMENT UNTIL IT PROVIDES NOTICE
3 TO:

4 (I) 1. THE SENATE BUDGET AND TAXATION COMMITTEE AND
5 THE HOUSE APPROPRIATIONS COMMITTEE; AND

6 2. THE GENERAL ASSEMBLY SENATE AND HOUSE
7 DELEGATIONS FOR THE JURISDICTION IN WHICH THE PROPERTY IS LOCATED; AND

8 (II) THE PRESIDING OFFICERS OF THE GENERAL ASSEMBLY AND
9 THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE AND
10 THE HOUSE ENVIRONMENTAL MATTERS COMMITTEE, IN THE CASE OF THE
11 FOLLOWING PROPERTY THAT THE STATE OWNS OR IN WHICH IT HAS AN INTEREST:

12 1. PROPERTY UNDER PROGRAM OPEN SPACE UNDER TITLE 5,
13 SUBTITLE 9 OF THE NATURAL RESOURCES ARTICLE;

14 2. PROPERTY UNDER THE RURAL LEGACY PROGRAM UNDER
15 TITLE 5, SUBTITLE 9A OF THE NATURAL RESOURCES ARTICLE;

16 3. PUBLIC PARK LAND AND RECREATIONAL AREAS UNDER
17 TITLE 5, SUBTITLE 10 OF THE NATURAL RESOURCES ARTICLE;

18 4. WILDLAND AND OPEN AREAS UNDER TITLE 5, SUBTITLE 12
19 OF THE NATURAL RESOURCES ARTICLE;

20 5. HERITAGE CONSERVATION AREAS UNDER TITLE 5,
21 SUBTITLE 15 OF THE NATURAL RESOURCES ARTICLE; AND

22 6. FOREST CONSERVATION AREAS UNDER TITLE 5, SUBTITLE
23 16 OF THE NATURAL RESOURCES ARTICLE.

24 [(2)] (3) The Board may not approve the sale, LEASE, TRANSFER,
25 EXCHANGE, GRANT, OR OTHER DISPOSITION of any [State owned] STATE-OWNED
26 real or personal property funded pursuant to an appropriation act of the Maryland
27 General Assembly if the property has an appraised value over \$100,000 until:

28 (i) a description of the real or personal property has been
29 submitted to the Senate Budget and Taxation Committee and the House
30 Appropriations Committee for review and comment; [and]

31 (ii) IN THE CASE OF PERSONAL PROPERTY, 45 days have elapsed
32 since the description was [submitted] RECEIVED BY THE COMMITTEES; AND

33 (III) IN THE CASE OF REAL PROPERTY, 75 DAYS HAVE ELAPSED
34 SINCE THE DESCRIPTION WAS RECEIVED BY THE COMMITTEES.

35 (4) NOTWITHSTANDING OTHER PROVISIONS OF THIS TITLE, THE BOARD
36 MAY NOT APPROVE THE SALE, LEASE, TRANSFER, EXCHANGE, GRANT, OR OTHER

1 DISPOSITION OF PROPERTY UNDER PROGRAM OPEN SPACE UNDER TITLE 5,
2 SUBTITLE 9 OF THE NATURAL RESOURCES ARTICLE, OR PUBLIC PARK LAND AND
3 RECREATIONAL AREAS UNDER TITLE 5, SUBTITLE 10 OF THE NATURAL RESOURCES
4 ARTICLE, UNTIL THE GENERAL ASSEMBLY BY LEGISLATION APPROVES THE
5 TRANSACTION AT ITS NEXT SESSION.

6 (b) Except as otherwise provided in this section:

7 (1) if any real or personal property disposed of under this section is not
8 under the jurisdiction or control of any particular unit of the State government, the
9 deed, lease, or other evidence of conveyance of the real or personal property shall be
10 executed by the Board; and

11 (2) if any real or personal property disposed of under this section is
12 under the jurisdiction or control of a unit of the State government, the deed, lease, or
13 other evidence of conveyance of the real or personal property shall be executed by the
14 highest official of the unit and by the Board.

15 (c) (1) Whenever any unit of the State government leases any State-owned
16 property under its jurisdiction and control to any State employee, agent, or servant,
17 or to any other individual in State service, for the purpose of permitting the
18 individual to maintain a residence on or in the property, the lease shall be:

19 (i) executed by the unit; and

20 (ii) approved by the Secretary of General Services.

21 (2) The lease is not valid unless the Secretary of General Services
22 approves it.

23 (3) Whenever any unit of the State government leases any State-owned
24 property under its jurisdiction and control to any lessee, the lease shall include a
25 provision which prohibits the lessee from assigning or subleasing that property
26 without the prior approval of the Board of Public Works.

27 (4) Whenever the State Highway Administration leases any
28 State-owned property under its jurisdiction and control to any person, the
29 Administrator of the State Highway Administration may execute the lease if:

30 (i) the lease is entered into on a 30-day renewable basis; and

31 (ii) the duration of the tenancy does not exceed 1 year.

32 (5) At least twice each year, the Administrator of the State Highway
33 Administration shall submit a report of the leases executed under the authority
34 granted in paragraph (4) of this subsection to the Board of Public Works.

35 (d) (1) On the sale, lease, transfer, exchange, or other disposition of any real
36 or personal property owned or controlled by the State Retirement and Pension System
37 or the State of Maryland for the use of the Board of Trustees of the State Retirement

1 and Pension System, any conveyancing document shall be executed in the manner
2 provided in Division II of the State Personnel and Pensions Article.

3 (2) Any sale, lease, transfer, exchange or other disposition of any real or
4 personal property owned or controlled by the State Retirement and Pension System or
5 the State of Maryland for the use of the Board of Trustees of the State Retirement and
6 Pension System by a conveyancing document executed by or for the Board of Trustees
7 of the State Retirement and Pension System before October 1, 1994 in the manner
8 provided under former Article 73B is ratified and confirmed.

9 (e) All conveyances under this section shall be made in the name of the State
10 of Maryland, acting through the executing authority provided for in this section.

11 (f) This section does not apply to any lease or other temporary transfer, grant,
12 or disposition of State real or personal property in connection with a procurement
13 made subject to § 11-202(3) of this article.

14 (G) EXCEPT IN ACCORDANCE WITH ITS REGULATIONS, THE BOARD MAY SELL,
15 LEASE, TRANSFER, EXCHANGE, OR OTHERWISE DISPOSE OF SURPLUS REAL
16 PROPERTY UNDER THIS SECTION ONLY IN ACCORDANCE WITH THE REQUIREMENTS
17 OF THE COMPETITIVE SEALED BIDS PROCESS UNDER § 13-103 OF THIS ARTICLE.

18 [(g)] (H) The Department of Budget and Management and Department of
19 General Services, with the approval of the Board, shall adopt regulations in
20 accordance with Title 10, Subtitle 1 of the State Government Article to implement the
21 provisions of this section.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 June 1, 2005.