

---

By: **Delegates James, Barkley, Bobo, Bohanan, Branch, Cadden, Cane,  
 G. Clagett, V. Clagett, Conroy, Conway, DeBoy, Franchot, Frush,  
 Glassman, Griffith, Haynes, Heller, Hubbard, Jones, Kach, Krysiak,  
 Madaleno, Mandel, McIntosh, Menes, Montgomery, Niemann, Paige,  
 Parker, Pendergrass, Proctor, Ramirez, Rosenberg, Sophocleus,  
 Trueschler, F. Turner, and Weir**

Introduced and read first time: February 10, 2005  
 Assigned to: Environmental Matters and Appropriations

---

A BILL ENTITLED

1 AN ACT concerning

2 **Land Preservation Retention Act**

3 FOR the purpose of requiring the Department of Natural Resources to provide notice  
 4 regarding the disposal of certain land to certain State legislators and land  
 5 owners; requiring the Department to hold a public hearing and create a public  
 6 record before declaring certain land as excess property; requiring the public  
 7 record to include certain information; requiring the Department to adopt certain  
 8 regulations; requiring a certain assessment by the Department to be available to  
 9 citizens and State legislators; requiring the Department to provide the  
 10 Department of Planning a copy of a certain public record in certain  
 11 circumstances; requiring the Department of Planning to obtain a certain  
 12 number of appraisals for certain excess real property; requiring the Department  
 13 of Planning to review a certain file; requiring the Department of Planning to  
 14 make a certain recommendation to certain individuals; requiring the  
 15 Department of Planning to submit a certain file with a certain recommendation  
 16 to the Board of Public Works; requiring the Board of Public Works to transfer  
 17 certain property to a local government under certain conditions; prohibiting the  
 18 Board from selling or otherwise disposing of certain surplus property until a  
 19 certain time period has elapsed, or in the case of certain other property, until the  
 20 Board has reviewed a certain file; requiring the Department of General Services  
 21 to provide to certain committees a certain justification within a certain length of  
 22 time before disposing of certain real property; and generally relating to the  
 23 authority and responsibilities of the Department of Natural Resources, the  
 24 Department of Planning, and the Board of Public Works with regard to the  
 25 disposition of certain State lands.

26 BY adding to  
 27 Article - Natural Resources  
 28 Section 5-104  
 29 Annotated Code of Maryland

1 (2000 Replacement Volume and 2004 Supplement)

2 BY repealing and reenacting, with amendments,

3 Article - State Finance and Procurement

4 Section 5-310 and 10-305

5 Annotated Code of Maryland

6 (2001 Replacement Volume and 2004 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

8 MARYLAND, That the Laws of Maryland read as follows:

9

**Article - Natural Resources**

10 5-104.

11 (A) THE DEPARTMENT MAY NOT DECLARE PROPERTY THAT WAS ACQUIRED  
12 FOR CONSERVATION AS EXCESS PROPERTY UNTIL THE DEPARTMENT HAS:

13 (1) NOTIFIED THE STATE LEGISLATORS THAT RESIDE IN THE COUNTY  
14 IN WHICH THE PROPERTY IS LOCATED;

15 (2) NOTIFIED ADJACENT LAND OWNERS OF THE TIME AND PLACE OF  
16 THE PUBLIC HEARING;

17 (3) HELD A PUBLIC HEARING AT WHICH CITIZENS HAVE BEEN ALLOWED  
18 TO PROVIDE COMMENT; AND

19 (4) CREATED A PUBLIC RECORD IN ACCORDANCE WITH SUBSECTION (B)  
20 OF THIS SECTION.

21 (B) THE PUBLIC RECORD FOR EACH PIECE OF PROPERTY THAT IS DECLARED  
22 EXCESS SHALL INCLUDE:

23 (1) COMMENTS PRESENTED BY CITIZENS AT THE HEARING;

24 (2) COMMENTS FROM THE STATE LEGISLATORS WHO RESIDE IN THE  
25 COUNTY;

26 (3) CRITERIA USED BY THE DEPARTMENT IN THE DETERMINATION  
27 THAT THE PROPERTY IS EXCESS;

28 (4) HISTORY OF THE ACQUISITION OF THE PROPERTY;

29 (5) RATIONALE PROVIDED TO THE BOARD OF PUBLIC WORKS AT THE  
30 TIME OF THE ACQUISITION;

31 (6) FUTURE CONSERVATION PLANS FOR THE PROPERTY; AND

32 (7) ANY OTHER JUSTIFICATION OR BASIS THAT THE DEPARTMENT  
33 RELIES ON IN ITS DETERMINATION THAT THE PROPERTY IS EXCESS.

1 (C) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT ESTABLISH  
2 THE CRITERIA TO BE USED IN A DETERMINATION OF LAND AS EXCESS, WHICH SHALL  
3 INCLUDE:

4 (I) ENVIRONMENTAL AND ECOLOGICAL ATTRIBUTES OF THE  
5 PROPERTY;

6 (II) CULTURAL AND HISTORICAL SIGNIFICANCE OF THE PROPERTY;

7 (III) SIGNIFICANCE OF THE PROPERTY TO THE COMMUNITY;

8 (IV) RELATIONSHIP OF THE PROPERTY TO SURROUNDING OR  
9 NEARBY REAL PROPERTIES;

10 (V) ACTUAL COST SAVINGS, IF ANY, THAT RESULT WITH THE  
11 DISPOSAL OF THE PROPERTY; AND

12 (VI) ANY OTHER OBJECTIVE STANDARD.

13 (2) THE DEPARTMENT'S CRITERIA USED TO DETERMINE THAT  
14 PROPERTY IS EXCESS SHALL BE AVAILABLE TO CITIZENS AND STATE LEGISLATORS  
15 AT LEAST 14 DAYS BEFORE THE PUBLIC HEARING.

16 **Article - State Finance and Procurement**

17 5-310.

18 (a) Each unit of the State government shall notify the Department of:

19 (1) any real property that is in excess of the needs of the unit; or

20 (2) any substantial change to any real property owned by the State.

21 (B) FOR ANY REAL PROPERTY THAT WAS ACQUIRED IN FEE SIMPLE FOR  
22 CONSERVATION PURPOSES, THE DEPARTMENT OF NATURAL RESOURCES SHALL  
23 PROVIDE THE DEPARTMENT WITH A COPY OF THE PUBLIC RECORD CREATED IN  
24 ACCORDANCE WITH § 5-104 OF THE NATURAL RESOURCES ARTICLE.

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

27 (1) study the proper disposition of the property;

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

30 (3) IN THE CASE OF PROPERTY IDENTIFIED BY THE DEPARTMENT OF  
31 NATURAL RESOURCES, OBTAIN TWO INDEPENDENT APPRAISALS OF THE PROPERTY;

1 (4) IN THE CASE OF PROPERTY THAT WAS ACQUIRED IN FEE SIMPLE FOR  
2 CONSERVATION PURPOSES, REVIEW THE FILE PROVIDED BY THE DEPARTMENT OF  
3 NATURAL RESOURCES; AND

4 [(3)] (5) make an appropriate recommendation AS TO WHETHER THE  
5 LAND IS SURPLUS TO THE NEEDS OF THE STATE to the:

6 (I) using unit of the State government;

7 (II) LOCAL GOVERNMENT;

8 (III) STATE LEGISLATORS THAT RESIDE IN THE COUNTY IN WHICH  
9 THE PROPERTY IS LOCATED;

10 (IV) SENATE BUDGET AND TAXATION COMMITTEE;

11 (V) HOUSE APPROPRIATIONS COMMITTEE; AND

12 (VI) [and to the] Board of Public Works.

13 (D) WHEN THE DEPARTMENT MAKES A RECOMMENDATION FOR ANY REAL  
14 PROPERTY THAT WAS ACQUIRED IN FEE SIMPLE FOR CONSERVATION PURPOSES,  
15 THE DEPARTMENT SHALL SUBMIT TO THE BOARD OF PUBLIC WORKS A COPY OF THE  
16 PUBLIC RECORD CREATED IN ACCORDANCE WITH § 5-104 OF THE NATURAL  
17 RESOURCES ARTICLE.

18 10-305.

19 (a) (1) [Any] SUBJECT TO PARAGRAPHS (2), (3), AND (4) OF THIS  
20 SUBSECTION, ANY real or personal property of the State or a unit of the State  
21 government may be sold, leased, transferred, exchanged, granted, or otherwise  
22 disposed of:

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

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

27 (2) THE BOARD SHALL SELL TO A LOCAL GOVERNMENT FOR \$1.00 ANY  
28 PROPERTY ACQUIRED BY THE STATE IN FEE SIMPLE FOR LAND CONSERVATION AND  
29 DECLARED BY THE DEPARTMENT OF NATURAL RESOURCES AS EXCESS, IF THE  
30 LOCAL GOVERNMENT:

31 (I) INDICATES ITS INTEREST IN ACQUIRING THE LAND; AND

32 (II) AGREES TO CONTINUE TO MAINTAIN THE PROPERTY AS AN  
33 OUTDOOR RECREATION OR OPEN SPACE AREA.

1 [(2)](3) The Board may not approve the sale of any State owned real or  
2 personal property funded pursuant to an appropriation act of the Maryland General  
3 Assembly if the property has an appraised value over \$100,000 until:

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

7 (ii) 45 days have elapsed since the description was [submitted]  
8 RECEIVED BY THE COMMITTEES; AND

9 (III) FOR ANY REAL PROPERTY THAT WAS ACQUIRED IN FEE SIMPLE  
10 FOR CONSERVATION PURPOSES, THE BOARD HAS RECEIVED AND REVIEWED A COPY  
11 OF THE PUBLIC RECORD CREATED IN ACCORDANCE WITH § 5-104 OF THE NATURAL  
12 RESOURCES ARTICLE.

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

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

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

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

26 (i) executed by the unit; and

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

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

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

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

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

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

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

5 (d) (1) On the sale, lease, transfer, exchange, or other disposition of any real  
6 or personal property owned or controlled by the State Retirement and Pension System  
7 or the State of Maryland for the use of the Board of Trustees of the State Retirement  
8 and Pension System, any conveyancing document shall be executed in the manner  
9 provided in Division II of the State Personnel and Pensions Article.

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

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

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

21 (G) FOR ANY REAL PROPERTY THAT WAS ACQUIRED IN FEE SIMPLE FOR  
22 CONSERVATION PURPOSES, THE SECRETARY OF GENERAL SERVICES SHALL PROVIDE  
23 TO THE SENATE BUDGET AND TAXATION COMMITTEE AND THE HOUSE  
24 APPROPRIATIONS COMMITTEE 45 DAYS PRIOR TO THE DISPOSITION, ANY  
25 JUSTIFICATION FOR NOT SELLING, LEASING, TRANSFERRING, EXCHANGING, OR  
26 OTHERWISE DISPOSING OF SURPLUS REAL PROPERTY UNDER THIS SECTION IN  
27 ACCORDANCE WITH THE REQUIREMENTS OF THE COMPETITIVE SEALED BIDS  
28 PROCESS UNDER § 13-103 OF THIS ARTICLE.

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

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
34 July 1, 2005.