
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.

[2][3]) The Board may not approve the sale of any State owned real or personal property funded pursuant to an appropriation act of the Maryland General 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:

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.

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.