

CHAPTER 479

(House Bill 1596)

AN ACT concerning

Board of Public Works – Notification – Capital Leases

FOR the purpose of prohibiting the Board of Public Works from approving certain leases without a certain ~~determination by the Comptroller's General Accounting Office; requiring certain notice to the Legislative Policy Committee prior to approval of certain leases; requiring certain leases to be approved as capital leases; certification by the Capital Debt Affordability Committee or approval of the General Assembly in the budget;~~ and generally relating to the approval of leases by the Board of Public Works.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 12–204
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

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

Article – State Finance and Procurement

12–204.

(a) This section does not apply to a lease entered into on or before May 31, 1967, unless the lease is renewed after that date.

(b) (1) Except as [provided in subsection (c) of this section] **OTHERWISE PROVIDED IN THIS SECTION** and § 13–108 of this article, before a unit executes or renews a lease of land, buildings, or office space, the Board shall approve the lease or lease renewal.

(2) After review by the Secretary of General Services, the Board may designate the location of any unit.

(c) (1) Subject to paragraph (2) of this subsection, the Board may adopt regulations, in accordance with Title 10, Subtitle 1 of the State Government Article, that allow a unit to execute or renew a lease without Board approval.

(2) These regulations are subject to the approval of:

(i) the General Assembly; or

(ii) while the General Assembly is not in session, the Legislative Policy Committee.

(3) Regulations adopted under this section shall:

(i) establish an expenditure or use classification to determine which leases or lease renewals may be entered into without Board approval;

(ii) set an amount for each classification and require a unit to obtain approval if a lease or lease renewal exceeds that amount; and

(iii) require a unit to establish a reporting system approved by the Board to inform the Board about leases or lease renewals entered into without Board approval.

(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE BOARD MAY NOT APPROVE A LEASE THAT:

(I) TRANSFERS OWNERSHIP OF THE PROPERTY TO THE LESSEE ON OR BEFORE THE TERMINATION OF THE LEASE;

(II) ALLOWS THE LESSEE TO PURCHASE THE PROPERTY BELOW FAIR MARKET VALUE OR FOR A FIXED AMOUNT;

(III) IS FOR A TERM THAT IS 75% OR MORE OF THE ESTIMATED USEFUL ECONOMIC LIFE OF THE PROPERTY; OR

(IV) HAS PAYMENTS WITH A PRESENT VALUE THAT IS 90% OR MORE OF THE FAIR MARKET VALUE OF THE PROPERTY.

(2) ~~(1)~~ THE BOARD MAY APPROVE A LEASE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION IF:

~~1. THE COMPTROLLER'S GENERAL ACCOUNTING OFFICE DETERMINES THE LEASE IS NOT APPROPRIATE TO BE INCLUDED IN THE ANNUAL ESTIMATE OF THE CAPITAL DEBT AFFORDABILITY COMMITTEE; AND~~

~~2. THE BOARD SUBMITS TO THE LEGISLATIVE POLICY COMMITTEE THE LEASE TERMS AND ANY SUPPORTING INFORMATION.~~

~~(H) THE LEGISLATIVE POLICY COMMITTEE HAS 45 DAYS WITHIN WHICH TO REVIEW AND PROVIDE WRITTEN COMMENTS ON THE LEASE.~~

~~(3) IF THE COMPTROLLER'S GENERAL ACCOUNTING OFFICE DETERMINES THE LEASE IS APPROPRIATE TO BE INCLUDED IN THE ANNUAL ESTIMATE OF THE CAPITAL DEBT AFFORDABILITY COMMITTEE THE LEASE MAY BE APPROVED AS A CAPITAL LEASE AS PROVIDED IN §§ 8 401 THROUGH 8 407 OF THIS ARTICLE.~~

(I) THE CAPITAL DEBT AFFORDABILITY COMMITTEE HAS CERTIFIED TO THE GOVERNOR AND THE GENERAL ASSEMBLY THAT THE TOTAL AMOUNT OF NEW STATE DEBT TO BE INCURRED BY THE LEASE MAY PRUDENTLY BE AUTHORIZED; OR

(II) THE GENERAL ASSEMBLY HAS APPROVED THE LEASE IN THE BUDGET FOR THE REQUESTING UNIT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.

Approved by the Governor, May 13, 2008.