

Chapter 410

(House Bill 1025)

AN ACT concerning

~~Natural Resources~~ State Government – Land Acquisitions and Transfers of Property

FOR the purpose of requiring the Department of Natural Resources to negotiate land acquisitions under certain circumstances; requiring the Department to obtain a certain number of independent appraisals of a property before certain acquisitions; requiring certain land acquisition contracts to be approved and executed by the Board of Public Works; requiring the Department to give written notice of potential land acquisitions to certain governmental bodies under certain circumstances; authorizing certain governmental bodies to submit written comments to the Department in a certain timeframe; requiring the Board of Public Works to supervise certain expenditures for certain land acquisitions; authorizing the Department to dispose of certain land under certain circumstances; authorizing the Board of Public Works to exempt certain projects from certain requirements; requiring the Department to adopt certain regulations, including regulations developed in consultation with the Department of General Services; making technical corrections; requiring the Department of Natural Resources to prepare and revise a certain plan in consultation with the Department of Planning; exempting certain land acquisitions by the Department from certain land acquisition requirements; altering a certain definition to ~~include~~ exclude certain land acquisitions by the Department; exempting certain property transfers from certain appraisal requirements; authorizing the Department to submit certain property appraisals to the Board of Public Works; and generally relating to ~~land acquisition and planning functions performed~~ acquisitions by the Department of Natural Resources and transfers of property among certain units of State government.

BY adding to

Article – Natural Resources
Section 1–109
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,

Article – Natural Resources
Section 5–903(e), 5–904(d), 5–906(b), and 5–1222
Annotated Code of Maryland
(2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
 Article – Natural Resources
 Section 5–906(a)
 Annotated Code of Maryland
 (2005 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
 Article – State Finance and Procurement
 Section 4–412, ~~5–7B–01(e)(1)~~ 5–7B–01(c), 10–304, and 10–305(b)
 Annotated Code of Maryland
 (2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
 Article – State Finance and Procurement
 Section 10–305(a)
 Annotated Code of Maryland
 (2009 Replacement Volume and 2010 Supplement)

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

Article – Natural Resources

1–109.

(A) (1) THE DEPARTMENT SHALL NEGOTIATE THE ACQUISITION OF REAL PROPERTY FOR OPEN SPACE, RECREATION, CONSERVATION, AND OTHER PURPOSES UNDER THIS ARTICLE.

(2) THE DEPARTMENT SHALL MAKE EACH ACQUISITION UNDER THIS SUBSECTION IN THE NAME OF THE STATE TO THE USE OF THE DEPARTMENT.

(B) EXCEPT FOR REAL PROPERTY THAT IS ACQUIRED BY GIFT, BEFORE ANY REAL PROPERTY IS ACQUIRED FROM A PRIVATE OWNER, THE DEPARTMENT SHALL OBTAIN TWO INDEPENDENT APPRAISALS OF THE PROPERTY.

(C) (1) A CONTRACT FOR THE ACQUISITION OF LAND UNDER THIS SECTION SHALL BE APPROVED AND EXECUTED BY THE BOARD OF PUBLIC WORKS.

(2) AT LEAST 40 DAYS BEFORE THE BOARD OF PUBLIC WORKS MAY ACT ON A LAND ACQUISITION UNDER THIS SECTION, THE DEPARTMENT SHALL GIVE WRITTEN NOTICE OF A POTENTIAL ACQUISITION OF LAND:

(I) TO THE GOVERNING BODY OF THE COUNTY IN WHICH THE LAND IS LOCATED; AND

(II) IF THE LAND IS LOCATED WITHIN A MUNICIPAL CORPORATION, TO THE GOVERNING BODY OF THE MUNICIPAL CORPORATION.

(3) WITHIN 30 DAYS AFTER RECEIVING NOTICE UNDER THIS SUBSECTION, THE GOVERNING BODY MAY SUBMIT WRITTEN COMMENTS TO THE DEPARTMENT.

(D) THE BOARD OF PUBLIC WORKS SHALL SUPERVISE THE EXPENDITURE OF ANY MONEY THAT THE GENERAL ASSEMBLY APPROPRIATES FOR THE ACQUISITION OF LAND UNDER THIS SECTION.

(E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE DEPARTMENT MAY DISPOSE OF LAND OWNED AND MANAGED BY THE DEPARTMENT AS CONSIDERATION FOR THE ACQUISITION OF LAND NOT OWNED BY THE DEPARTMENT.

(2) IN IMPLEMENTING THIS SUBSECTION, THE DEPARTMENT SHALL COMPLY WITH THE PROCEDURES ESTABLISHED UNDER TITLE 5, SUBTITLE 3 AND TITLE 10, SUBTITLE 3 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(F) THE BOARD OF PUBLIC WORKS MAY EXEMPT PROJECTS UNDER THIS SECTION FROM THE PROVISIONS OF THIS SECTION.

(G) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

(2) THE REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE A SYSTEM FOR APPRAISAL REVIEW DEVELOPED BY THE DEPARTMENT IN CONSULTATION WITH THE DEPARTMENT OF GENERAL SERVICES.

5-903.

(e) (1) The Department may, with the approval of the Board of Public Works, use acquisition funds to make matching or refundable grants to land trusts for the acquisition of interests or rights in real property for recreational or open space purposes.

(2) [Notwithstanding the provisions of §§ 4–411 through 4–414 of the State Finance and Procurement Article, subject] **SUBJECT** to the availability of funds and in accordance with other provisions of this article regarding open space and wildland areas, the Department may enter into agreements with a land trust for the State to acquire title to or an interest or right in property owned by the land trust or property on which the land trust holds an option or a contract to purchase.

(3) An agreement under this subsection shall be subject to approval by the Board of Public Works under [§ 4–415 of the State Finance and Procurement Article] ~~§ 1–107(c)~~ **1–109(C) OF THIS ARTICLE.**

5–904.

(d) (1) [Notwithstanding § 4–412 of the State Finance and Procurement Article, the] **THE** Department and the Maryland Environmental Trust, with the approval of the Board of Public Works, may:

(i) Use State project funds under Program Open Space to contribute towards, or reimburse the Department of Transportation for, a portion of the costs of acquiring any fee titles, restrictive covenants, or conservation easements for which the Department of Transportation spends federal funds for transportation enhancements, as defined in Title 23, United States Code, §§ 101(a) and 133; and

(ii) Acquire the fee titles, restrictive covenants, or conservation easements from the Department of Transportation or any of its agents.

(2) State project funds under Program Open Space may be used to contribute toward, or reimburse the Department of Transportation for, a portion of the costs of acquiring any fee titles, as specified in paragraph (1) of this subsection, only for acquisitions that are contained in the most current consolidated transportation plan of the State.

5–906.

(a) Each local project shall conform to a comprehensive plan the local governing body approves and have the approval of official planning agencies having jurisdiction, including comprehensive planning agencies.

(b) Every acquisition and development project funded by the State in whole or in part shall meet needs identified in the Maryland Land Preservation and Recreation Plan prepared and revised every 6 years by the Department **IN CONSULTATION WITH THE DEPARTMENT** of Planning [in cooperation with the Department]. The document shall identify and recommend for State acquisition efforts those resource areas facing the most intense or immediate development pressure.

These resource areas shall be designated as targeted areas. The document and any changes to it shall be distributed to every local governing body.

5-1222.

[Notwithstanding the provisions of §§ 4-411 through 4-414 of the State Finance and Procurement Article, subject] **SUBJECT** to the availability of funds and in accordance with other provisions of this article regarding open space and wildland areas, the Secretary may enter into agreements with the Nature Conservancy for the State to acquire title to or an interest in property owned by the Nature Conservancy or property on which the Nature Conservancy holds an option or a contract to purchase.

Article – State Finance and Procurement

4-412.

(a) Except as otherwise provided in this section, the Division exclusively shall negotiate the acquisition of land[:

(1)] for any public improvement[; and

(2) for any State project funded under the State share of Program Open Space].

(b) The Division shall make each State acquisition in the name of:

(1) the unit of the State government; or

(2) the principal department of the State government to which the unit belongs.

(c) The Division is not responsible for acquiring land for a local project.

(d) (1) The Division is not responsible for developing any acquired land.

(2) Development of any land acquired under Program Open Space is the responsibility of the unit of the State government.

(E) THE PROVISIONS OF THIS SECTION AND §§ 4-413 THROUGH 4-416 OF THIS SUBTITLE DO NOT APPLY TO LAND ACQUIRED BY THE DEPARTMENT OF NATURAL RESOURCES UNDER TITLE 1, SUBTITLE 1 OF THE NATURAL RESOURCES ARTICLE.

5-7B-01.

(c) (1) “Growth-related project” means only the items set forth below:

(i) any major capital project as defined in § 2–103.1(a)(4) of the Transportation Article, except existing transportation facilities projects as defined in § 4–101(i) of the Transportation Article, project planning as defined in § 8–610(i) of the Transportation Article, or initial project planning as defined in § 8–610(e) of the Transportation Article;

(ii) funding by the Department of Housing and Community Development for:

1. construction or purchase of newly constructed single family homes or purchase of loans for newly constructed single family homes under Title 4, Subtitle 2, Subtitle 3, or Subtitle 8 of the Housing and Community Development Article;

2. acquisition or construction of newly constructed multifamily rental housing under Title 4, Subtitle 2, Subtitle 4, or Subtitle 15 of the Housing and Community Development Article; or

3. State-funded neighborhood revitalization projects under Title 6 of the Housing and Community Development Article;

(iii) funding by the Department of Business and Economic Development under any of the following:

1. the Maryland Industrial Development Financing Authority, authorized under Title 5, Subtitle 4 of the Economic Development Article;

2. the Maryland Small Business Development Financing Authority, authorized under Title 5, Subtitle 5 of the Economic Development Article;

3. the former Maryland Energy Financing Act, authorized under former Article 83A, Title 6, Subtitle 4 of the Code, succeeded by the Maryland Industrial Development Financing Authority;

4. the Economic Development Opportunities Program Fund, authorized under § 7–314 of this article;

5. the former Maryland Competitive Advantage Financing Fund, authorized under former Article 83A, Title 5, Subtitle 13 of the Code; and

6. the Maryland Economic Development Assistance Authority and Fund, authorized under Title 5, Subtitle 3 of the Economic Development Article;

(iv) funding by the Department of the Environment, for any project under:

1. §§ 9–1601 through 9–1605 (Water Quality Revolving Loan Fund) of the Environment Article except for funding nonpoint source pollution projects;

2. §§ 9–420 through 9–426 (Water Supply Financial Assistance Program) of the Environment Article; and

3. the supplemental assistance program authorized under Title 9, Subtitle 3, Part VI of the Environment Article; and

(v) except as provided in paragraph (2) of this subsection, procurement or funding of projects by the Department of General Services for:

1. leases of property by the State governed by §§ 4–318 through 4–321 of this article; and

2. land acquisition governed by §§ 4–411 through 4–416 of this article;~~AND~~

~~(VI) PROCUREMENT OR FUNDING OF PROJECTS BY THE DEPARTMENT OF NATURAL RESOURCES FOR LAND ACQUISITION UNDER § 1-109 OF THE NATURAL RESOURCES ARTICLE.~~

(2) “Growth-related project” does not include:

(i) projects by the Department of General Services for maintenance, repair, additions, or renovations to existing facilities, acquisition of land for telecommunications towers, parks, conservation and open space, and acquisition of agricultural, conservation, and historic easements;

(ii) funding by the Department of Housing and Community Development for any project financed with federal moneys used to purchase or rehabilitate existing single or multifamily housing or project financed with the proceeds of revenue bonds issued by the Community Development Administration if:

1. the Secretary of Housing and Community Development determines that application of this section:

A. conflicts with any provision of federal or State law applicable to the issuance or tax-exempt status of the bonds;

B. conflicts with any provision of any trust agreement between the Community Development Administration and any trustee; or

C. would otherwise prohibit financing of an existing project, or financing provided to cure or prevent any default under existing financing; or

2. the revenue bonds are issued under a transfer of the Maryland State ceiling to the Administration by a county under Title 13, Subtitle 8 of the Financial Institutions Article; [or]

(III) ACQUISITION OF LAND BY THE DEPARTMENT OF NATURAL RESOURCES UNDER TITLE 1, SUBTITLE 1 OF THE NATURAL RESOURCES ARTICLE; OR

[(iii)] (IV) any other project, funding, or other State assistance not listed under paragraph (1) of this subsection.

10-304.

(a) This section does not apply to:

(1) property that is pledged to secure the payment of principal of or interest on revenue bonds; or

(2) real property that is owned or controlled by the State Highway Administration, **UNLESS THE PROPERTY IS BEING TRANSFERRED TO THE MARYLAND TRANSPORTATION AUTHORITY OR TO ANOTHER UNIT IN THE DEPARTMENT OF TRANSPORTATION.**

(b) (1) The Board may transfer any property, and all rights of physical custody and control over the property, from a unit of the Executive Branch of the State government to another unit of the Executive Branch of the State government.
~~TRANSFERS~~

(2) ANY PROPERTY TRANSFERRED UNDER THIS SUBSECTION ~~ARE~~ IS EXEMPT FROM THE APPRAISAL REQUIREMENTS UNDER § 10-305(B)(2)(I) OF THIS TITLE.

~~(2)~~ **(3)** Any property transferred under this subsection is subject to the continuing general jurisdiction of the Board.

10-305.

(a) Subject to subsection (b) of this section, any real or personal property of the State or a unit of the State government may be sold, leased, transferred, exchanged, granted, or otherwise disposed of:

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

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

(b) (1) (i) Except as provided under subparagraph (ii) of this paragraph, this subsection applies to the sale, transfer, grant, or exchange of:

1. real property identified under § 5–310(c)(1) of this article; and

2. State-owned real or personal property, funded in accordance with an appropriation act of the General Assembly, that has an appraised value over \$100,000.

(ii) This subsection does not apply to the following dispositions of property identified in subparagraph (i) of this paragraph:

1. leasing the property; or

2. the sale, transfer, grant, or exchange of a corrective or access easement on the property.

(2) The Board may not approve the sale, transfer, exchange, or grant of property until:

(i) the Department of General Services **OR THE DEPARTMENT OF NATURAL RESOURCES UNDER TITLE 1, SUBTITLE 1 OF THE NATURAL RESOURCES ARTICLE** has submitted to the Board two independent appraisals of the property that:

1. with regard to real property, consider the value of any restrictive covenant that may be placed on the property; and

2. may not be publicly disclosed if the property is to be sold at auction;

(ii) the following information has been submitted, by electronic mail or facsimile and by certified mail, to the Senate Budget and Taxation Committee, the House Appropriations Committee, and, for property that meets both criteria of paragraph (1)(i) of this subsection, the Legislative Policy Committee:

1. a description of the property; and

2. if applicable, any justification for not selling, transferring, exchanging, or granting the property in a manner that generates the highest return for the State;

(iii) 45 days have elapsed since:

1. the information required by item (ii) of this paragraph was received by the appropriate committees; and

2. the Board declared the property surplus; and

(iv) except for property sold under paragraph (4) of this subsection, for property that meets both criteria under paragraph (1)(i) of this subsection and for which the Board intends to approve a fee simple sale, transfer, exchange, or grant, the General Assembly has approved the proposed disposition as provided under paragraph (3) of this subsection.

(3) (i) Within 45 days after receiving the information submitted under paragraph (2) of this subsection, the Legislative Policy Committee shall:

1. review the information and the public record created by the Department of Planning for the property; and

2. A. approve the proposed disposition of the surplus property and refer the property back to the Board for final disposition; or

B. refer the proposed disposition of the property to the full General Assembly and notify the Board of the referral.

(ii) If the Legislative Policy Committee fails to take any action under subparagraph (i)2 of this paragraph within the specified time period, the proposed disposition shall be deemed approved by the Committee.

(iii) 1. If the proposed disposition of the surplus property is referred by the Legislative Policy Committee to the full General Assembly, the proposed disposition may not be approved by the Board unless it is approved by the passage of legislation during the next legislative session of the General Assembly.

2. In any legislation passed in accordance with subparagraph 1 of this subparagraph, the General Assembly may approve the proposed disposition with or without conditions.

(4) If the Board has declared the property surplus, the Board shall sell the property to the federal government, a local government, or a unit of federal or local government for \$1.00, if:

(i) the government or unit has indicated its interest in acquiring the land; and

(ii) a restrictive covenant is placed on the deed of transfer, in accordance with § 5-906(e)(7) and (8) of the Natural Resources Article, that requires the property to be maintained in a use that is consistent with its use at the time of transfer.

(5) Any revenues derived from the sale, transfer, exchange, or grant of property identified under paragraph (1)(i)1 of this subsection shall be deposited in the Advance Option and Purchase Fund under § 5-904(b) of the Natural Resources Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 19, 2011.