

Chapter 23

(House Bill 125 of the 2020 Regular Session)

AN ACT concerning

Board of Public Works – Land Acquisition – Requirements

FOR the purpose of prohibiting the Board of Public Works from approving the acquisition of certain real property except under certain circumstances; prohibiting the Board, under certain circumstances, from approving the acquisition of certain real property from the federal government until the Board provides certain notice and, on a certain request made within a certain period of time, a certain study ~~has been completed~~; providing that certain requirements related to the acquisition of real property do not apply to certain property; making a conforming change; and generally relating to the authority of the Board of Public Works regarding land acquisition.

BY repealing and reenacting, with amendments,
 Article – State Finance and Procurement
 Section 10–305
 Annotated Code of Maryland
 (2015 Replacement Volume and 2019 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

10–305.

(a) Subject to [subsection] **SUBSECTIONS (b) AND (C)** 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 subsubparagraph 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.

(C) (1) THIS SUBSECTION DOES NOT APPLY TO:

(I) PROPERTY THAT WILL BE ACQUIRED WITH PROGRAM OPEN SPACE FUNDS UNDER TITLE 5, SUBTITLE 9 OF THE NATURAL RESOURCES ARTICLE;

(II) PROPERTY THAT WILL BE ACQUIRED WITH RURAL LEGACY PROGRAM FUNDS UNDER TITLE 5, SUBTITLE 9A OF THE NATURAL RESOURCES ARTICLE;

(III) PROPERTY THAT WILL BE ACQUIRED WITH LOCAL LAND PRESERVATION PROGRAM FUNDS UNDER TITLE 5, SUBTITLE 9B OF THE NATURAL RESOURCES ARTICLE;

(IV) PROPERTY THAT WILL BE ACQUIRED WITH COMMUNITY PARKS AND PLAYGROUNDS PROGRAM FUNDS UNDER TITLE 5, SUBTITLE 9C OF THE NATURAL RESOURCES ARTICLE;

(V) PROPERTY THAT WILL BE ACQUIRED WITH FUNDS FROM THE HERITAGE CONSERVATION FUND UNDER TITLE 5, SUBTITLE 15 OF THE NATURAL RESOURCES ARTICLE;

(VI) PROPERTY THAT WILL BE ACQUIRED WITH FUNDS FROM THE FOREST AND PARK RESERVE FUND ESTABLISHED UNDER § 5-212 OF THE NATURAL RESOURCES ARTICLE;

(VII) PROPERTY THAT WILL BE ACQUIRED WITH FEDERAL GRANT FUNDS MADE AVAILABLE TO THE DEPARTMENT OF NATURAL RESOURCES FOR OPEN SPACE, RECREATION, OR CONSERVATION PURPOSES;

(VIII) PROPERTY THAT WILL BE ACQUIRED BY THE MARYLAND ENVIRONMENTAL TRUST;

~~(VI)~~ (IX) A MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION EASEMENT ACQUIRED UNDER § 2-504 OF THE AGRICULTURE ARTICLE;

~~(VII)~~ (X) FEDERALLY OWNED MILITARY PROPERTY;

~~(VIII) PROPERTY AT BALTIMORE WASHINGTON INTERNATIONAL THURGOOD MARSHALL AIRPORT; OR~~

~~(IX) PROPERTY AT THE PORT OF BALTIMORE.~~

~~(VIII)~~ (XI) PROPERTY THAT WILL BE ACQUIRED BY THE MARYLAND AVIATION ADMINISTRATION; OR

~~(IX)~~ (XII) PROPERTY THAT WILL BE ACQUIRED BY THE MARYLAND PORT ADMINISTRATION.

(2) THE BOARD MAY NOT APPROVE THE ACQUISITION OF REAL PROPERTY WITH AN APPRAISED VALUE OF AT LEAST \$500,000 UNLESS THE BOARD HAS PROVIDED TO THE LEGISLATIVE POLICY COMMITTEE:

(I) A JUSTIFICATION FOR THE PLANNED ACQUISITION; AND

(II) ON REQUEST OF THE COCHAIRS OF THE LEGISLATIVE POLICY COMMITTEE MADE WITHIN 14 DAYS AFTER RECEIVING THE JUSTIFICATION UNDER ITEM (I) OF THIS PARAGRAPH:

~~(H)~~ 1. A COST-BENEFIT ANALYSIS OF THE PLANNED ACQUISITION; AND

~~(HH)~~ 2. AT LEAST 45 DAYS ~~FOR THE LEGISLATIVE POLICY COMMITTEE~~ TO REVIEW THE INFORMATION PROVIDED UNDER ~~ITEMS (I) AND (H) OF THIS PARAGRAPH~~ AND COMMENT ON THE PLANNED ACQUISITION BEFORE THE ACQUISITION IS APPROVED.

(3) IF THE ACQUISITION OF REAL PROPERTY WITH AN APPRAISED VALUE OF AT LEAST \$500,000 FROM THE FEDERAL GOVERNMENT WOULD REQUIRE THE STATE TO PROVIDE ONGOING MAINTENANCE OF THE PROPERTY, THE BOARD MAY NOT APPROVE THE ACQUISITION UNTIL THE BOARD HAS PROVIDED TO THE LEGISLATIVE POLICY COMMITTEE:

(I) NOTICE THAT THE ACQUISITION WOULD REQUIRE THE STATE TO PROVIDE ONGOING MAINTENANCE OF THE PROPERTY; AND

(II) ON REQUEST OF THE COCHAIRS OF THE LEGISLATIVE POLICY COMMITTEE WITHIN 14 DAYS AFTER RECEIVING THE NOTICE PROVIDED UNDER ITEM (I) OF THIS PARAGRAPH, A STUDY ~~HAS BEEN COMPLETED~~ REGARDING THE ONGOING FISCAL IMPACT THE ACQUISITION WOULD HAVE ON THE STATE, INCLUDING ANY ENVIRONMENTAL MITIGATION THAT MAY BE REQUIRED.

[(c)] (D) Except as otherwise provided in this section:

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

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

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

- (i) executed by the unit; and
- (ii) approved by the Secretary of General Services.

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

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

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

- (i) the lease is entered into on a 30-day renewable basis; and
- (ii) the duration of the tenancy does not exceed 1 year.

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

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

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

[(f)] (G) All conveyances under this section shall be made in the name of the State of Maryland, acting through the executing authority provided for in this section.

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2020.

Gubernatorial Veto Override, February 12, 2021.