

SENATE BILL 148

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By: **Senator Young**

Introduced and read first time: January 10, 2020

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Board of Public Works – Land Acquisition – Requirements**

3 FOR the purpose of prohibiting the Board of Public Works from approving the acquisition
4 of certain real property except under certain circumstances; prohibiting the Board,
5 under certain circumstances, from approving the acquisition of certain real property
6 from the federal government until a certain study has been completed; providing that
7 certain requirements related to the acquisition of real property do not apply to
8 certain property; making a conforming change; and generally relating to the
9 authority of the Board of Public Works regarding land acquisition.

10 BY repealing and reenacting, with amendments,
11 Article – State Finance and Procurement
12 Section 10–305
13 Annotated Code of Maryland
14 (2015 Replacement Volume and 2019 Supplement)

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

17 **Article – State Finance and Procurement**

18 10–305.

19 (a) Subject to [subsection] **SUBSECTIONS (b) AND (C)** of this section, any real or
20 personal property of the State or a unit of the State government may be sold, leased,
21 transferred, exchanged, granted, or otherwise disposed of:

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

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

12 1. leasing the property; or

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

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

17 (i) the Department of General Services or the Department of
18 Natural Resources under Title 1, Subtitle 1 of the Natural Resources Article has submitted
19 to the Board two independent appraisals of the property that:

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

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

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

28 1. a description of the property; and

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

32 (iii) 45 days have elapsed since:

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

3 2. the Board declared the property surplus; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 **(VI) A MARYLAND AGRICULTURAL LAND PRESERVATION**
20 **FOUNDATION EASEMENT ACQUIRED UNDER § 2-504 OF THE AGRICULTURE**
21 **ARTICLE;**

22 **(VII) FEDERALLY OWNED MILITARY PROPERTY;**

23 **(VIII) PROPERTY AT BALTIMORE-WASHINGTON INTERNATIONAL**
24 **THURGOOD MARSHALL AIRPORT; OR**

25 **(IX) PROPERTY AT THE PORT OF BALTIMORE.**

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

29 **(I) A JUSTIFICATION FOR THE PLANNED ACQUISITION;**

30 **(II) A COST-BENEFIT ANALYSIS OF THE PLANNED ACQUISITION;**

31 **AND**

1 **(III) AT LEAST 45 DAYS FOR THE LEGISLATIVE POLICY**
2 **COMMITTEE TO REVIEW THE INFORMATION PROVIDED UNDER ITEMS (I) AND (II) OF**
3 **THIS PARAGRAPH AND COMMENT ON THE PLANNED ACQUISITION.**

4 **(3) IF THE ACQUISITION OF REAL PROPERTY WITH AN APPRAISED**
5 **VALUE OF AT LEAST \$500,000 FROM THE FEDERAL GOVERNMENT WOULD REQUIRE**
6 **THE STATE TO PROVIDE ONGOING MAINTENANCE OF THE PROPERTY, THE BOARD**
7 **MAY NOT APPROVE THE ACQUISITION UNTIL A STUDY HAS BEEN COMPLETED**
8 **REGARDING THE ONGOING FISCAL IMPACT THE ACQUISITION WOULD HAVE ON THE**
9 **STATE.**

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

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

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

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

23 (i) executed by the unit; and

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

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

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

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

34 (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 granted in
4 paragraph (4) of this subsection to the Board of Public Works.

5 **[(e)] (F)** (1) On the sale, lease, transfer, exchange, or other disposition of any
6 real 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 and
8 Pension System, any conveyancing document shall be executed in the manner provided in
9 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 the
12 State of Maryland for the use of the Board of Trustees of the State Retirement and Pension
13 System by a conveyancing document executed by or for the Board of Trustees of the State
14 Retirement and Pension System before October 1, 1994 in the manner provided under
15 former Article 73B is ratified and confirmed.

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

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

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

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
26 1, 2020.