

# HOUSE BILL 1282

P1

9lr1361

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By: **Delegate Healey**

Introduced and read first time: February 8, 2019

Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 26, 2019

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## CHAPTER \_\_\_\_\_

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

11 BY repealing and reenacting, with amendments,  
12 Article – State Finance and Procurement  
13 Section 10–305  
14 Annotated Code of Maryland  
15 (2015 Replacement Volume and 2018 Supplement)

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

18 **Article – State Finance and Procurement**

19 10–305.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

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

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

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

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

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

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

17 1. leasing the property; or

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

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

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

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

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

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

33 1. a description of the property; and

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

4                   (iii)   45 days have elapsed since:

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

7                   2.     the Board declared the property surplus; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 **(VI) A MARYLAND AGRICULTURAL LAND PRESERVATION**  
25 **FOUNDATION EASEMENT ACQUIRED UNDER § 2-504 OF THE AGRICULTURE**  
26 **ARTICLE; OR**

27 **(VII) FEDERALLY OWNED MILITARY PROPERTY.**

28 ~~**(C) (2) THE BOARD MAY NOT APPROVE THE EXPENDITURE OF STATE**~~  
29 ~~**FUNDS OR THE DISPOSAL OF STATE PROPERTY FOR THE PURPOSE OF ACQUIRING**~~  
30 ~~**ACQUISITION OF REAL PROPERTY WITH AN APPRAISED VALUE OF AT LEAST**~~  
31 ~~**\$100,000 \$500,000**~~ **UNLESS THE BOARD HAS PROVIDED TO THE LEGISLATIVE**  
32 **POLICY COMMITTEE:**

33 ~~**(1)**~~ **(I) A JUSTIFICATION FOR THE PLANNED ACQUISITION;**

1           ~~(2)~~ **(II)** A COST-BENEFIT ANALYSIS OF THE PLANNED ACQUISITION;  
2 AND

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

7           ~~(D)~~ **(3)** IF THE ACQUISITION OF REAL PROPERTY WITH AN APPRAISED  
8 VALUE OF AT LEAST ~~\$100,000~~ **\$500,000** FROM THE FEDERAL GOVERNMENT WOULD  
9 REQUIRE THE STATE TO PROVIDE ONGOING MAINTENANCE OF THE PROPERTY, THE  
10 BOARD MAY NOT APPROVE THE ACQUISITION UNTIL A STUDY HAS BEEN COMPLETED  
11 REGARDING THE ONGOING FISCAL IMPACT THE ACQUISITION WOULD HAVE ON THE  
12 STATE.

13           [(c)] ~~(E)~~ **(D)** Except as otherwise provided in this section:

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

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

22           [(d)] ~~(E)~~ **(E)** (1) Whenever any unit of the State government leases any  
23 State-owned property under its jurisdiction and control to any State employee, agent, or  
24 servant, 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 approves  
29 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 provision  
32 which prohibits the lessee from assigning or subleasing that property without the prior  
33 approval of the Board of Public Works.

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

4 (i) the lease is entered into on a 30-day renewable basis; and

5 (ii) the duration of the tenancy does not exceed 1 year.

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

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

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

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

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

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

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June  
30 1, 2019.