

Senate Bill 444

By: Senators Pearson of the 51st, Mullis of the 53rd, Stoner of the 6th, Williams of the 19th and Seay of the 34th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 32-7-4 of the Official Code of Georgia Annotated, relating to the
2 procedure for disposition of property not needed for public road purposes, so as to allow the
3 Department of Transportation to more readily dispose of surplus property; to provide for
4 related matters; to provide for an effective date; to repeal conflicting laws; and for other
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 32-7-4 of the Official Code of Georgia Annotated, relating to the procedure for
9 disposition of property not needed for public road purposes, is revised to read as follows:

10 "32-7-4.

11 (a)(1) In disposing of property, as authorized under Code Section 32-7-3, the department,
12 a county, or a municipality shall notify the owner of such property at the time of its
13 acquisition or, if the tract from which the department, a county, or a municipality
14 acquired its property has been subsequently sold, shall notify the owner of abutting land
15 holding title through the owner from whom the department, a county, or a municipality
16 acquired its property. The notice shall be in writing delivered to the appropriate owner
17 ~~or by publication if his address is unknown~~; and he or she shall have the right to acquire,
18 as provided in this subsection, the property with respect to which the notice is given.
19 ~~Publication, if necessary, shall be in a newspaper of general circulation in the county~~
20 ~~where the property is located.~~ If, after a search of the land and probate records, the
21 address of any interested party cannot be found, an affidavit stating such facts and
22 reciting the steps taken to establish the address of any such person shall be placed in the
23 department, county, or municipal records and shall be accepted in lieu of service of notice
24 by mailing the same to the last known address of such person. After properly completing
25 and filing such affidavit, the department, county, or municipality may dispose of the
26 property in accordance with the provisions of subsection (b) of this Code section.

1 (2)(A) When an entire parcel acquired by the department, a county, or a municipality,
 2 or any interest therein, is being disposed of, it may be acquired under the right created
 3 in paragraph (1) of this subsection at such price as may be agreed upon, but in no event
 4 less than the price paid for its acquisition. When only remnants or portions of the
 5 original acquisition are being disposed of, they may be acquired for the market value
 6 thereof at the time the department, county, or municipality decides the property is no
 7 longer needed.

8 (B) The provisions of subparagraph (A) of this paragraph notwithstanding, if the value
 9 of the property is \$30,000.00 or less as determined by department estimate, the
 10 department, county, or municipality may negotiate the sale.

11 (3) If the right of acquisition is not exercised within 60 days after due notice, the
 12 department, county, or municipality may proceed to sell such property as provided in
 13 subsection (b) of this Code section.

14 (4) When the department, county, or municipality in good faith and with reasonable
 15 diligence attempted to ascertain the identity of persons entitled to notice under this Code
 16 section and mailed such notice to the last known address of record of those persons or
 17 otherwise complied with the notification requirements of this Code section, the failure
 18 to in fact notify those persons entitled thereto shall not invalidate any subsequent
 19 disposition of property pursuant to this Code section.

20 (5) The inventory of real property which has been owned by the department for 40 or
 21 more years, and which is not within a transportation corridor or within the right of way
 22 of a transportation facility, shall be evaluated to determine the necessity for retaining the
 23 property. If the property is not needed for construction, operation, or maintenance of a
 24 transportation facility, or is not located within a transportation corridor, the department
 25 may dispose of the property pursuant to subsection (b) of this Code section without the
 26 necessity of offering the property to the owner of such property, or his or her successor
 27 in interest, at the time the property was acquired by the department.

28 (b)(1)(A) Unless a sale of the property is made pursuant to paragraph (2) or (3) of this
 29 subsection, such sale shall be made to the bidder submitting the highest of the sealed
 30 bids received after public advertisement for such bids for two weeks. If the highest of
 31 the sealed bids received is less than but within 15 percent of the established market
 32 value, the department may accept that bid and convey the property in accordance with
 33 the provisions of subsection (c) of this Code section. The department or the county or
 34 municipality shall have the right to reject any and all bids, in its discretion, to
 35 readvertise, or to abandon the sale.

36 (B) Such public advertisement shall be inserted once a week in such newspapers or
 37 other publication, or both, as will ensure adequate publicity, the first insertion to be at

1 least two weeks prior to the opening of bids, the second to follow one week after the
 2 first publication. Such advertisement shall include but not be limited to the following
 3 items:

- 4 (i) A description sufficient to enable the public to identify the property;
- 5 (ii) The time and place for submission and opening of sealed bids;
- 6 (iii) The right of the department or the county or municipality to reject any one or all
 7 of the bids;
- 8 (iv) All the conditions of sale; and
- 9 (v) Such further information as the department or the county or municipality may
 10 deem advisable as in the public interest.

11 (2)(A) Such sale of property may be made by a county or municipality by listing the
 12 property through a real estate broker licensed under Chapter 40 of Title 43 who has a
 13 place of business located in the county where the property is located or outside the
 14 county if no such business is located in the county where the property is located.
 15 Property shall be listed for a period of at least three months. Such property shall not be
 16 sold at less than its fair market value. All sales shall be approved by the governing
 17 authority of the county at a regular meeting and shall be open to the public at which
 18 meeting public comments shall be allowed regarding such sale.

19 (B) Commencing at the time of the listing of the property as provided in subparagraph
 20 (A) of this paragraph, the county or municipality shall provide for a notice to be
 21 inserted once a week for two weeks in the legal organ of the county indicating the
 22 names of real estate brokers listing the property for the political subdivision. The
 23 county or municipality may advertise in magazines relating to the sale of real estate or
 24 similar publications.

25 (C) The county or municipality shall have the right to reject any and all offers, in its
 26 discretion, and to sell such property pursuant to the provisions of paragraph (1) of this
 27 subsection.

28 (3)(A) Such sale of property may be made by a county or municipality to the highest
 29 bidder at a public auction conducted by an auctioneer licensed under Chapter 6 of Title
 30 43. Such property shall not be sold at less than its fair market value.

31 (B) The county or municipality shall provide for a notice to be inserted once a week
 32 for the two weeks immediately preceding the auction in the legal organ of the county
 33 including, at a minimum, the following items:

- 34 (i) A description sufficient to enable the public to identify the property;
- 35 (ii) The time and place of the public auction;
- 36 (iii) The right of the department or the county or municipality to reject any one or all
 37 of the bids;

- 1 (iv) All the conditions of sale; and
- 2 (v) Such further information as the department or the county or municipality may
- 3 deem advisable as in the public interest.
- 4 The county or municipality may advertise in magazines relating to the sale of real estate
- 5 or similar publications.
- 6 (C) The county or municipality shall have the right to reject any and all offers, in its
- 7 discretion, and to sell such property pursuant to the provisions of paragraph (1) of this
- 8 subsection.
- 9 (c) Any conveyance of property shall require the approval of the department, county, or
- 10 municipality, by order of the commissioner on behalf of the department and, in the case of
- 11 a county or municipality, by resolution, to be recorded in the minutes of its meeting. If the
- 12 department or the county or municipality approves a sale of property, the commissioner,
- 13 ~~chairman~~ chairperson, or presiding officer may execute a quitclaim deed conveying such
- 14 property to the purchaser. All proceeds arising from such sales shall be paid into and
- 15 constitute a part of the funds of the seller."

16 **SECTION 2.**

17 This Act shall become effective on July 1, 2008.

18 **SECTION 3.**

19 All laws and parts of laws in conflict with this Act are repealed.