

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

**AS PASSED**

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 or her address is unknown; and he or she shall have the right to  
18 acquire, as provided in this subsection, the property with respect to which the notice is  
19 given. Publication, if necessary, shall be in a newspaper of general circulation in the  
20 county where the property is located. If, after a search of the land and probate records,  
21 the 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. The department shall use a real estate appraiser with knowledge of the  
 8 local real estate market who is licensed in Georgia and not an employee of the  
 9 department to establish the fair market value of the property prior to listing such  
 10 property.

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

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

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

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

31 (B) Such public advertisement shall be inserted once a week in such newspapers or  
 32 other publication, or both, as will ensure adequate publicity, the first insertion to be at  
 33 least two weeks prior to the opening of bids, the second to follow one week after the  
 34 first publication. Such advertisement shall include but not be limited to the following  
 35 items:

- 36 (i) A description sufficient to enable the public to identify the property;
- 37 (ii) The time and place for submission and opening of sealed bids;

1 (iii) The right of the department or the county or municipality to reject any one or all  
2 of the bids;

3 (iv) All the conditions of sale; and

4 (v) Such further information as the department or the county or municipality may  
5 deem advisable as in the public interest.

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

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

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

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

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

32 (i) A description sufficient to enable the public to identify the property;

33 (ii) The time and place of the public auction;

34 (iii) The right of the department or the county or municipality to reject any one or all  
35 of the bids;

36 (iv) All the conditions of sale; and

1 (v) Such further information as the department or the county or municipality may  
2 deem advisable as in the public interest.

3 The county or municipality may advertise in magazines relating to the sale of real estate  
4 or similar publications.

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

8 (c) Any conveyance of property shall require the approval of the department, county, or  
9 municipality, by order of the commissioner on behalf of the department and, in the case of  
10 a county or municipality, by resolution, to be recorded in the minutes of its meeting. If the  
11 department or the county or municipality approves a sale of property, the commissioner,  
12 ~~chairman~~ chairperson, or presiding officer may execute a quitclaim deed conveying such  
13 property to the purchaser. All proceeds arising from such sales shall be paid into and  
14 constitute a part of the funds of the seller."

15 **SECTION 2.**

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

17 **SECTION 3.**

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