

House Bill 968

By: Representatives Hill of the 21st, Neal of the 1st, and Jerguson of the 22nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 16 of Title 50 of the Official Code of Georgia Annotated,
2 relating to the state properties code, so as to revise certain provisions relating to the
3 disposition of state property; to remove oversight, review, and approval by the General
4 Assembly of real property transfers and conveyances; to provide the State Properties
5 Commission the authority to accept sealed bids or best and final offers for the lease or sale
6 of property; to authorize the commission to utilize licensed real estate brokers to perform
7 transaction management services; to authorize the commission to make a lease or sale of
8 property without public competitive bidding; to provide for related matters; to provide an
9 effective date; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 2 of Chapter 16 of Title 50 of the Official Code of Georgia Annotated, relating to the
13 state properties code, is amended by revising paragraph (8) of Code Section 50-16-31,
14 relating to definitions, as follows:

15 "(8) 'Property' means:

16 (A) The Western and Atlantic Railroad including all the property associated with the
17 railroad as of December 26, 1969, unless the same has otherwise been provided for by
18 Act or resolution of the General Assembly;

19 (B) All the property owned by the state in Tennessee other than that property included
20 in subparagraph (A) of this paragraph;

21 (C) The state owned property facing Peachtree, Cain, and Spring streets in the City of
22 Atlanta, Fulton County, Georgia, upon which the Governor's mansion once stood and
23 which is commonly referred to and known as the 'Henry Grady Hotel property' or 'old
24 Governor's mansion site property';

25 (D) Any state owned real property the custody and control of which has been
26 transferred to the commission by executive order of the Governor; ~~and~~

27 (E) Any state owned real property the custody and control of which has been
 28 transferred to the commission by an Act or resolution of the General Assembly without
 29 specific instructions as to its disposition; and

30 (F) Any state owned real property which a state entity, upon a declaration or resolution
 31 adopted by the governing body of such entity, has determined to be surplus to the needs
 32 of the entity."

33 **SECTION 2.**

34 Said article is further amended in Code Section 50-16-34, relating to powers and duties of
 35 the State Properties Commission generally, as follows:

36 "50-16-34.

37 The commission, in addition to other powers and duties set forth in other Code sections of
 38 this article, shall have the power and duty to:

- 39 (1) Inspect, control, manage, oversee, and preserve the property;
- 40 (2) Maintain at all times a current inventory of the property;
- 41 (3) Authorize the payment of any tax or assessment legally levied by the State of
 42 Tennessee or any governmental subdivision thereof upon any part of the property situated
 43 within the State of Tennessee;
- 44 (4) Prepare lease or sale proposals affecting the property ~~for submission to the General~~
 45 ~~Assembly;~~
- 46 (5) Subject to the limitation contained in this article, determine all of the terms and
 47 conditions of each instrument prepared or executed by it;
- 48 (6) Have prepared, in advance of ~~advertising for bids~~ consideration by the commission
 49 of a lease or contract of sale or deed of the property as provided for in Code Section
 50 50-16-39, a thorough report of such data as will enable the commission to arrive at a fair
 51 valuation of the property ~~involved in such advertisement~~; and to include within the report
 52 at least ~~two~~ one written ~~appraisals~~ appraisal of the value of the property, ~~which appraisals~~
 53 If the appraisal values the property at more than \$100,000.00, a second written appraisal
 54 shall be ordered; provided, however, that a second appraisal shall not be required when
 55 the contemplated lease or sale of the property is to a public entity. Appraisals shall be
 56 made by a person or persons familiar with property values in the area where the property
 57 is situated; provided, however, that one of the appraisals shall be made by a member of
 58 a nationally recognized appraisal organization; and provided, further, that in the case of
 59 the Western and Atlantic Railroad, the appraisal, other than the one required to be made
 60 by a member of a nationally recognized appraisal organization, may be the latest
 61 valuation report of the Western and Atlantic Railroad prepared by the Interstate
 62 Commerce Commission;

- 63 (7) Contract with any person for the preparation of studies or reports as to:
64 (A) The value of such property including, but not limited to, sale value, lease value,
65 and insurance value;
66 (B) The proper utilization to be made of such property; and
67 (C) Any other data necessary or desirable to assist the commission in the execution and
68 performance of its duties;
- 69 (8) Insure the improvements on all or any part of the property against loss or damage by
70 fire, lightning, tornado, or other insurable casualty; and insure the contents of the
71 improvements against any such loss or damage;
- 72 (9) Inspect as necessary any of the property which may be under a lease, rental
73 agreement, or revocable license agreement in order to determine whether the property is
74 being kept, preserved, cared for, repaired, maintained, used, and operated in accordance
75 with the terms and conditions of the lease, rental agreement, or revocable license
76 agreement and to take such action necessary to correct any violation of the terms and
77 conditions of the lease, rental agreement, or revocable license agreement;
- 78 (10) Deal with and dispose of any unauthorized encroachment upon, or use or occupancy
79 of, any part of the property, whether the encroachment, use, or occupancy is permissive
80 or adverse, or whether with or without claim of right therefor; to determine whether the
81 encroachment, use, or occupancy shall be removed or discontinued or whether it shall be
82 permitted to continue and, if so, to what extent and upon what terms and conditions; to
83 adjust, settle, and finally dispose of any controversy that may exist or arise with respect
84 to any such encroachment, use, or occupancy in such manner and upon such terms and
85 conditions as the commission may deem to be in the best interest of the state; to take such
86 action as the commission may deem proper and expedient to cause the removal or
87 discontinuance of any such encroachment, use, or occupancy; and to institute and
88 prosecute for and on behalf of and in the name of the state such actions and other legal
89 proceedings as the commission may deem appropriate for the protection of the state's
90 interest in or the assertion of the state's title to such property;
- 91 (11) Settle, adjust, and finally dispose of any claim, dispute, or controversy of any kind
92 whatsoever arising out of the terms and conditions, operation, or expiration of any lease
93 of the property or grant of rights in the property;
- 94 (12) Negotiate and prepare for submission to the General Assembly amendments to any
95 existing lease of the property, ~~which amendments shall not, for the purposes of paragraph~~
96 ~~(4) of this Code section and Code Section 50-16-39, be interpreted as lease proposals or~~
97 ~~proposals to lease, provided:~~

98 ~~(A) That the lessee of the lease as it is to be amended shall be either the lessee, a~~
99 ~~successor, an assignee, or a sublessee as to all or a portion of the property described in~~
100 ~~the lease as first executed or as heretofore amended; and~~

101 ~~(B) That unless otherwise provided in the lease as first executed or as heretofore~~
102 ~~amended:~~

103 ~~(i) The commission shall prepare each amendment in at least four counterparts all of~~
104 ~~which shall immediately be signed by the lessee, whose signature shall be witnessed~~
105 ~~in the manner required by the applicable law for public recording of conveyances of~~
106 ~~real estate. The signing shall constitute an offer by the lessee and shall not be subject~~
107 ~~to revocation by the lessee unless it is rejected by the General Assembly or the~~
108 ~~Governor as provided in this Code section. A resolution containing an exact copy of~~
109 ~~the amendment, or to which an exact copy of the amendment is attached, shall be~~
110 ~~introduced in the General Assembly in either the House of Representatives, the~~
111 ~~Senate, or both, if then in regular session, or, if not in regular session at such time, at~~
112 ~~the next regular session of the General Assembly. The resolution, in order to become~~
113 ~~effective, shall receive the same number of readings and, in both the House of~~
114 ~~Representatives and the Senate, go through the same processes and procedures as a~~
115 ~~bill;~~

116 ~~(ii) If either the House of Representatives or the Senate fails to adopt (pass) the~~
117 ~~resolution during the regular session by a constitutional majority vote in each house,~~
118 ~~the offer shall be considered rejected by the General Assembly;~~

119 ~~(iii) If the resolution is adopted (passed) during the regular session by a constitutional~~
120 ~~majority vote of both the House of Representatives and the Senate but is not approved~~
121 ~~by the Governor, the offer shall be considered rejected by the Governor;~~

122 ~~(iv) If the resolution is adopted (passed) during the regular session by a constitutional~~
123 ~~majority vote of both the House of Representatives and the Senate and is approved by~~
124 ~~the Governor, whenever in the judgment of the chairperson of the commission all of~~
125 ~~the precedent terms and conditions of the amendment and the resolution, if there are~~
126 ~~any, have been fulfilled or complied with, the chairperson of the commission, in his~~
127 ~~or her capacity as Governor of the state, shall execute and deliver to the lessee the~~
128 ~~amendment for and on behalf of and in the name of the state. The Governor's~~
129 ~~signature shall be attested by the secretary of the commission in his or her capacity~~
130 ~~as Secretary of State. The Secretary of State shall also affix the great seal of the state~~
131 ~~to the amendment; and~~

132 ~~(v) On or before December 31 in each year the executive director of the State~~
133 ~~Properties Commission shall submit a report describing all amendments negotiated~~
134 ~~during that year or under negotiation at the date of the report to the chairmen of the~~

135 ~~Senate Finance Committee and the State Institutions and Property Committee of the~~
 136 ~~House;~~

137 (13) Exercise such other powers and perform such other duties as may be necessary or
 138 desirable to inspect, control, manage, oversee, and preserve the property;

139 (14) Do all things and perform all acts necessary or convenient to carry out the powers
 140 and fulfill the duties given to the commission in this article;

141 (15) Perform all terms including, but not limited to, termination, satisfy all conditions,
 142 fulfill all requirements, and discharge all obligations and duties contained in all leases or
 143 contracts of sale of the property which provide that the commission is empowered to act
 144 or shall act for and on behalf of the state (lessor or seller) ~~and which leases or contracts~~
 145 ~~of sale have heretofore been approved and adopted (passed) or authorized by a resolution~~
 146 ~~of the General Assembly or which leases or contracts of sale may be approved and~~
 147 ~~adopted (passed) or authorized by a resolution of the General Assembly with the latter~~
 148 ~~resolution being approved by the Governor;~~

149 (16) Perform all terms, satisfy all conditions, fulfill all requirements, discharge all
 150 obligations, and otherwise implement the disposition of real property for and on behalf
 151 of the state; ~~when the General Assembly so provides in any enactment, including Acts~~
 152 ~~or resolutions, authorizing or directing a disposition of real property of the state or of any~~
 153 ~~instrumentality of the state; and~~

154 (17) Provide or perform acquisition related services to or for all state entities; and

155 (18) Contract with licensed real estate brokers through a competitive selection process
 156 to perform transaction management services on behalf of the commission. For purposes
 157 of this paragraph, 'transaction management' means the management of all tasks relative
 158 to the acquiring and disposing of real property assets, whether leased, subleased, or
 159 owned."

160 SECTION 3.

161 Said article is further amended in Code Section 50-16-39, relating to public competitive
 162 bidding procedure for sales and leases, acceptance or rejection of bids by the commission,
 163 General Assembly, or Governor, and execution of leases and deed, as follows:

164 "50-16-39.

165 (a) Any proposal to lease, other than a lease of mineral resources provided for in Code
 166 Section 50-16-43, or sell any part of the property pursuant to the power granted by
 167 paragraph (4) of Code Section 50-16-34 shall be initiated and carried out in accordance
 168 with this Code section.

169 (b) Any such lease or sale ~~shall~~ may be made upon public competitive bidding ~~and the~~
 170 ~~invitation for bids shall be advertised once a week for four consecutive weeks in the legal~~

171 ~~organ and in one or more newspapers of general circulation in the county or counties~~
172 ~~wherein is situated the property to be bid upon and in the legal organ of Fulton County,~~
173 ~~Georgia. Prior to such advertising, the commission shall prepare a proposed form of lease~~
174 ~~or contract of sale and deed and appropriate instructions which shall be furnished to~~
175 ~~prospective bidders under such conditions as the commission may prescribe in accordance~~
176 ~~with policies to be established by the commission. Such policies shall include the ability~~
177 ~~of the commission to take sealed bids or best and final offers for any lease or sale of the~~
178 ~~property.~~

179 (c) ~~Sealed~~ For any lease or sale which shall be based upon the taking of sealed bids, bids
180 shall be submitted to the secretary of the commission and each bid shall be accompanied
181 by a bid bond or such other security as may be prescribed by the commission. All bids
182 shall be opened in public on the date and at the time and place specified in the invitation
183 for bids. The commission shall formally determine and announce which bid and bidder it
184 considers to be most advantageous to the state. The commission shall have the right to
185 reject any or all bids and bidders and the right to waive formalities in bidding.

186 (d) ~~When the commission formally determines and announces which bid and bidder it~~
187 ~~considers to be most advantageous to the state, the commission shall then prepare the~~
188 ~~instrument of lease or contract of sale and deed in at least four counterparts, which lease~~
189 ~~or contract of sale shall be immediately signed by the prospective lessee or purchaser,~~
190 ~~whose signature shall be witnessed in the manner required by the applicable law for public~~
191 ~~recording of conveyances of real estate. The signing shall constitute a bid by the~~
192 ~~prospective lessee or purchaser and shall not be subject to revocation by the prospective~~
193 ~~lessee or purchaser unless it is rejected by the General Assembly or the Governor as~~
194 ~~provided in this Code section. A resolution containing an exact copy of the proposed lease~~
195 ~~or contract of sale and deed, or to which an exact copy of the proposed lease or contract of~~
196 ~~sale and deed is attached, shall be introduced in the General Assembly in either the House~~
197 ~~of Representatives, the Senate, or both, if then in regular session, or, if not in regular~~
198 ~~session at such time, at the next regular session of the General Assembly. The resolution,~~
199 ~~in order to become effective, shall receive the same number of readings and, in both the~~
200 ~~House of Representatives and the Senate, go through the same processes and procedures~~
201 ~~as a bill: All terms and conditions of the proposed lease or contract of sale and deed shall~~
202 ~~be provided to the commission for consideration.~~

203 (e) ~~If either the House of Representatives or the Senate fails to adopt (pass) the resolution~~
204 ~~during the regular session by a constitutional majority vote in each house, the bid shall be~~
205 ~~considered rejected by the General Assembly.~~

206 ~~(f) If the resolution is adopted (passed) during the regular session by a constitutional~~
 207 ~~majority vote of both the House of Representatives and the Senate but is not approved by~~
 208 ~~the Governor, the bid shall be considered rejected by the Governor.~~
 209 ~~(g) If the resolution is adopted (passed) during the regular session by a constitutional~~
 210 ~~majority vote of both the House of Representatives and the Senate and is approved by the~~
 211 ~~Governor, the chairperson of the commission, in his or her capacity as Governor of the~~
 212 ~~state, shall execute and deliver to the purchaser the contract of sale for and on behalf of and~~
 213 ~~in the name of the state, and thereupon both parties to the agreement shall be bound~~
 214 ~~thereby. The Governor's signature shall be attested by the secretary of the commission in~~
 215 ~~his or her capacity as Secretary of State. The Secretary of State shall also affix the great~~
 216 ~~seal of the state to the contract of sale. If the terms and conditions of the proposed lease~~
 217 ~~or contract of sale and deed is adopted by resolution of the commission during any regular~~
 218 ~~or called meeting of the commission, the chairperson of the commission, in his or her~~
 219 ~~capacity as Governor of the state, shall execute and deliver to the purchaser the contract of~~
 220 ~~sale for and on behalf of and in the name of the state, and thereupon both parties to the~~
 221 ~~agreement shall be bound by such agreement. The Governor's signature shall be attested~~
 222 ~~to by the secretary of the commission in his or her capacity as Secretary of State or in~~
 223 ~~accordance with Code Section 50-16-35. The Secretary of State or the executive director~~
 224 ~~shall also affix the great seal of the state to the contract of sale. Whenever, in the judgment~~
 225 ~~of the chairperson of the commission, all of the terms and conditions of the contract of sale,~~
 226 ~~or all of the precedent terms and conditions of the contract of sale, or all of the precedent~~
 227 ~~terms and conditions of the lease have been fulfilled or complied with, the chairperson of~~
 228 ~~the commission in his or her capacity as Governor of the state shall execute and deliver to~~
 229 ~~the purchaser or lessee the deed or lease for and on behalf of and in the name of the state.~~
 230 ~~The Governor's signature shall be attested by the secretary of the commission in his or her~~
 231 ~~capacity as Secretary of State. The Secretary of State shall also affix the great seal of the~~
 232 ~~state to the deed or lease."~~

233 **SECTION 4.**

234 Said article is further amended in Code Section 50-16-40, relating to interesse termini
 235 provisions not considered, as follows:

236 "50-16-40.

237 The commission shall not ~~submit to the General Assembly for its consideration~~ consider
 238 for approval any lease which provides that either:

239 (1) The lessee will not obtain possession of the leased premises within a period of five
 240 years from the ~~commencement date of the regular session of the General Assembly to~~
 241 date of the commission meeting at which the lease is submitted for consideration; or

242 (2) The term of the lease will not commence within a period of five years from the
 243 ~~commencement date of the regular session of the General Assembly to~~ date of the
 244 commission meeting at which the lease is submitted for consideration."

245 **SECTION 5.**

246 Said article is further amended in subsection (a) of Code Section 50-16-41, relating to rental
 247 agreements without competitive bidding authorized, limitations, commission charged with
 248 managing administrative space of all state entities, standards governing the utilization of
 249 administrative space, reassignment of administrative space, and rules and regulations, as
 250 follows:

251 "(a) Notwithstanding any provisions and requirements of law to the contrary and
 252 particularly notwithstanding the requirements of Code Section 50-16-39, the commission
 253 is authorized to negotiate, prepare, and enter into in its own name rental agreements
 254 whereby a part of the property is rented, without public competitive bidding, to a person
 255 for a length of time not to exceed one year and for adequate ~~monetary~~ consideration (~~in no~~
 256 ~~instance to be less than a rate of \$250.00 per year~~), which shall be determined by the
 257 commission, and pursuant to such terms and conditions as the commission shall determine
 258 to be in the best interest of the state. The same property or any part thereof shall not be the
 259 subject matter of more than one such rental agreement to the same person unless the
 260 commission shall determine that there are extenuating circumstances present which would
 261 make additional one-year rental agreements beneficial to the state; provided, however, the
 262 same property or any part thereof shall not after April 24, 1975, be the subject matter of
 263 more than a total of three such one-year rental agreements to the same person.

264 **SECTION 6.**

265 This Act shall become effective upon its approval by the Governor or upon its becoming law
 266 without such approval.

267 **SECTION 7.**

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