

House Bill 495

By: Representatives Hill of the 22<sup>nd</sup>, Neal of the 2<sup>nd</sup>, and Greene of the 151<sup>st</sup>

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 modify provisions related to conveyances of  
3 state property and consideration of conveyances by the General Assembly; to facilitate and  
4 increase reliability of state property conveyances; to provide for consideration of  
5 conveyances by committees of the General Assembly outside of the regular legislative  
6 session; to modify provisions related to public bidding of state property; to authorize the  
7 commission to manage the utilization of administrative space by the Georgia Department of  
8 Labor; to provide for related matters; to provide an effective date; to repeal conflicting laws;  
9 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 for provisions relating to the State Properties Code, and by adding a  
15 new paragraph (2.1) to read as follows:

16 "(2.1) 'Conveyance' means the sale or other disposition of real property including a  
17 transfer of fee simple title, lease, and easement."

18 "(8) 'Property' means:

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

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

24 (C) The state owned property facing Peachtree, Cain, and Spring streets in the City of  
25 Atlanta, Fulton County, Georgia, upon which the Governor's mansion once stood and

26 which is commonly referred to and known as the 'Henry Grady Hotel property' or 'old  
27 Governor's mansion site property';

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

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

33 (F) Any real property interest titled in the name of the state."

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## SECTION 2.

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

38 "50-16-34.

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

41 (1) Inspect, control, manage, oversee, and preserve the property;

42 (2) Maintain at all times a current inventory of the property;

43 (3) Authorize the payment of any tax or assessment legally levied by the State of  
44 Tennessee or any governmental subdivision thereof upon any part of the property situated  
45 within the State of Tennessee;

46 (4) Prepare lease or sale proposals affecting the property for submission to the General  
47 Assembly;

48 (5) Subject to the limitation contained in this article, determine all of the terms and  
49 conditions of each instrument prepared or executed by it;

50 (6) ~~Have prepared, in advance of advertising for bids as provided for in Code Section~~  
51 ~~50-16-39, a thorough report of such data as will enable the commission to arrive at a fair~~  
52 ~~valuation of the property involved in such advertisement; and to include within the report~~

53 either an opinion of the value if the conveyance is to a public entity or at least two written  
54 appraisals one written appraisal of the value of the property if the conveyance is to a  
55 private entity, which appraisals appraisal shall be made by a person or persons familiar

56 with property values in the area where the property is situated; ~~provided, however, that~~  
57 one of the appraisals shall be made by and who is a member of a nationally recognized  
58 appraisal organization; ~~and provided, further, that in.~~ If the written appraisal values the

59 property in excess of \$100,000.00 then a second written appraisal shall be required. In  
60 the case of the Western and Atlantic Railroad, the appraisal, other than the one required  
61 to be made by a member of a nationally recognized appraisal organization, at least two

62 written appraisals shall be required one of which may be the latest valuation report of the  
63 Western and Atlantic Railroad prepared by the Interstate Commerce Commission;

64 (7) Contract with any person for the preparation of studies or reports as to:

65 (A) The value of such property including, but not limited to, sale value, lease value,  
66 and insurance value;

67 (B) The proper utilization to be made of such property; and

68 (C) Any other data necessary or desirable to assist the commission in the execution and  
69 performance of its duties;

70 (8) Insure the improvements on all or any part of the property against loss or damage by  
71 fire, lightning, tornado, or other insurable casualty; and insure the contents of the  
72 improvements against any such loss or damage;

73 (9) Inspect as necessary any of the property which may be under a lease, rental  
74 agreement, or revocable license agreement in order to determine whether the property is  
75 being kept, preserved, cared for, repaired, maintained, used, and operated in accordance  
76 with the terms and conditions of the lease, rental agreement, or revocable license  
77 agreement and to take such action necessary to correct any violation of the terms and  
78 conditions of the lease, rental agreement, or revocable license agreement;

79 (10) Deal with and dispose of any unauthorized encroachment upon, or use or occupancy  
80 of, any part of the property, whether the encroachment, use, or occupancy is permissive  
81 or adverse, or whether with or without claim of right therefor; to determine whether the  
82 encroachment, use, or occupancy shall be removed or discontinued or whether it shall be  
83 permitted to continue and, if so, to what extent and upon what terms and conditions; to  
84 adjust, settle, and finally dispose of any controversy that may exist or arise with respect  
85 to any such encroachment, use, or occupancy in such manner and upon such terms and  
86 conditions as the commission may deem to be in the best interest of the state; to take such  
87 action as the commission may deem proper and expedient to cause the removal or  
88 discontinuance of any such encroachment, use, or occupancy; and to institute and  
89 prosecute for and on behalf of and in the name of the state such actions and other legal  
90 proceedings as the commission may deem appropriate for the protection of the state's  
91 interest in or the assertion of the state's title to such property;

92 (11) Settle, adjust, and finally dispose of any claim, dispute, or controversy of any kind  
93 whatsoever arising out of the terms and conditions, operation, or expiration of any lease  
94 of the property or grant of rights in the property;

95 (12) Negotiate and prepare for submission to the General Assembly amendments to any  
96 existing lease, which amendments shall not, for the purposes of paragraph (4) of this  
97 Code section and Code Section 50-16-39, be interpreted as lease proposals or proposals  
98 to lease, provided:

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

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

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

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

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

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

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

136 of the report to the ~~chairmen~~ chairpersons of the Senate ~~Finance~~ State Institutions and  
 137 Property Committee and the ~~State Institutions and Property~~ Committee of the House  
 138 Committee on State Properties or such other standing committee that routinely  
 139 considers state property related issues as designated by the President of the Senate or  
 140 the Speaker of the House of Representatives;

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

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

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

154 (16) Perform all terms, satisfy all conditions, fulfill all requirements, discharge all  
 155 obligations, and otherwise implement the disposition of real property for and on behalf  
 156 of the state when the General Assembly so provides in any enactment, including Acts or  
 157 resolutions, authorizing or directing a disposition of real property of the state or of any  
 158 instrumentality of the state; and

159 (17) Provide or perform acquisition related services to or for all state entities."

### 160 **SECTION 3.**

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

165 "50-16-39.

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

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

172 ~~organ and in one or more newspapers of general circulation in the county or counties~~  
 173 ~~wherein is situated the property to be bid upon and in the legal organ of Fulton County,~~  
 174 ~~Georgia. Prior to such advertising, the commission shall prepare a proposed form of lease~~  
 175 ~~or contract of sale and deed and appropriate instructions which shall be furnished to~~  
 176 ~~prospective bidders under such conditions as the commission may prescribe. A~~  
 177 ~~conveyance to a private entity shall be made only upon a public competitive process in~~  
 178 ~~accordance with rules established by the commission. The commission shall be authorized~~  
 179 ~~to accept sealed bids and best and final offers for any conveyance of property.~~

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

188 (d) When the commission formally determines and announces which bid and bidder or  
 189 offer and offeror it considers to be most advantageous to the state, the commission shall  
 190 then prepare the instrument of lease or contract of sale and deed ~~in at least four~~  
 191 ~~counterparts~~, which lease or contract of sale shall be immediately signed by the prospective  
 192 lessee or purchaser, whose signature shall be witnessed in the manner required by the  
 193 applicable law for public recording of conveyances of real estate. The signing shall  
 194 constitute a bid or offer by the prospective lessee or purchaser and shall not be subject to  
 195 revocation by the prospective lessee or purchaser unless it is rejected by the General  
 196 Assembly or the Governor as provided in ~~this Code section~~ Code Section 50-16-40. ~~A~~  
 197 ~~resolution containing an exact copy of the proposed lease or contract of sale and deed, or~~  
 198 ~~to which an exact copy of the proposed lease or contract of sale and deed is attached, shall~~  
 199 ~~be introduced in the General Assembly in either the House of Representatives, the Senate,~~  
 200 ~~or both, if then in regular session, or, if not in regular session at such time, at the next~~  
 201 ~~regular session of the General Assembly. The resolution, in order to become effective,~~  
 202 ~~shall receive the same number of readings and, in both the House of Representatives and~~  
 203 ~~the Senate, go through the same processes and procedures as a bill.~~

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

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

228 **SECTION 4.**

229 Said article is further amended by revising Code Section 50-16-40, relating to interesse  
 230 termini provisions not considered, as follows:

231 "50-16-40.

232 **(a) Approval by the General Assembly of conveyances generally.**

233 (1) The commission shall prepare each conveyance in at least four counterparts all of  
 234 which shall immediately be signed by the conveyee, whose signature shall be witnessed  
 235 in the manner required by the applicable law for public recording of conveyances of real  
 236 estate. The signing shall constitute an offer by the conveyee and shall not be subject to  
 237 revocation by the conveyee unless it is rejected by the General Assembly or the Governor  
 238 as provided in this Code section.

239 (2) The commission shall not submit to the General Assembly for its consideration any  
 240 lease conveyance which provides that either:

241 ~~(1)(A)~~ The ~~lessee~~ conveyee will not obtain possession of the leased premises within  
 242 a period of five years from the commencement date of the regular session of the  
 243 General Assembly to which the ~~lease~~ conveyance is submitted for consideration; or  
 244 ~~(2)(B)~~ The term of the ~~lease~~ conveyance will not commence within a period of five  
 245 years from the commencement date of the regular session of the General Assembly to  
 246 which the ~~lease~~ conveyance is submitted for consideration.

247 **(b) Conveyances submitted to the General Assembly during regular session.**

248 (1) A resolution containing a description of the proposed conveyance shall be introduced  
 249 in the General Assembly in either the Senate, the House of Representatives, or both, if  
 250 then in regular session, or if not in regular session at such time, at the next regular session  
 251 of the General Assembly; provided, however, that conveyances may be considered  
 252 outside the regular session of the General Assembly in a manner provided in  
 253 paragraph (2) of this Code section. The resolution, in order to become effective, shall  
 254 receive the same number of readings and in both the Senate and the House of  
 255 Representatives go through the same processes and procedures as a bill:

256 (A) If either the Senate or the House of Representatives fails to adopt the resolution  
 257 during the regular session by a majority vote in each house, the offer shall be  
 258 considered rejected by the General Assembly;

259 (B) If the resolution is adopted during the regular session by a majority vote of both  
 260 the Senate and the House of Representatives but is not approved by the Governor, the  
 261 offer shall be considered rejected by the Governor;

262 (C) If the resolution is adopted during the regular session by a majority vote of both  
 263 the Senate and the House of Representatives and is approved by the Governor,  
 264 whenever in the judgment of the chairperson of the commission all of the precedent  
 265 terms and conditions of the agreement and the resolution, if there are any, have been  
 266 fulfilled or complied with, the chairperson of the commission, in his or her capacity as  
 267 Governor of the state or the executive director shall execute and deliver to the conveyee  
 268 the agreement for and on behalf of and in the name of the State of Georgia. The  
 269 Governor's or executive director's signature shall be attested by the secretary of the  
 270 commission in his or her capacity as Secretary of State. The Secretary of State or  
 271 executive director shall also affix the great seal of the state to the amendment.

272 (2) A conveyance resolution submitted to the General Assembly during the regular  
 273 legislative session pursuant to this subsection shall not be amended or considered for  
 274 amendment after more than 20 days of its original filing in either the Senate or the House  
 275 of Representatives. In addition, such bill shall not have any amendment at any time that  
 276 pertains to matters unrelated to a state property conveyance.

277 **(c) Conveyances initiated prior to regular session of the General Assembly.**

278 (1) Not more than twice outside of the regular session of the General Assembly the  
 279 commission shall prepare a resolution containing a description of proposed conveyances  
 280 which shall be submitted to the President of the Senate and the Speaker of the House and  
 281 to the chairpersons of the standing committees of the Senate and of the House of  
 282 Representatives which regularly consider proposed legislation related to state property.  
 283 The resolution shall be prepared with the assistance of the Office of Legislative Counsel  
 284 and shall not be submitted until approved by that office. A copy of the proposed  
 285 resolution shall also be provided to each member whose legislative district contains all  
 286 or a portion of the property that is the subject of a proposed conveyance.

287 (2) The standing committees that regularly consider matters related to state property in  
 288 the Senate and the House of Representatives shall meet not less than twice a year at a  
 289 time outside of the regular legislative session of the General Assembly, on or about July  
 290 and October of each year. The committees shall consider any property conveyance  
 291 resolutions submitted by the commission and shall vote to approve or disapprove of such  
 292 resolution. If a committee in the Senate or the House of Representatives approves a  
 293 resolution by a majority vote, then a committee report shall be prepared reflecting the  
 294 committee's approval of the resolution. If both the Senate and the House of  
 295 Representatives committees approve a resolution, then the resolution shall be filed at the  
 296 next regular session of the General Assembly with a copy of both committee reports  
 297 attached. The resolution, in order to become effective, shall receive the same number of  
 298 readings in both the Senate and the House of Representatives and shall then be voted on  
 299 as any other bill; provided, however, such bills shall not be subject to assignment to any  
 300 committee or subcommittee of either the Senate or the House of Representatives and shall  
 301 not be subject to any amendment."

302 **SECTION 5.**

303 Said article is further amended by revising subsection (b) of Code Section 50-16-41, relating  
 304 to rental agreements without competitive bidding authorized, limitations, commission  
 305 charged with managing administrative space of all state entities, standards governing the  
 306 utilization of administrative space, reassignment of administrative space, and rules and  
 307 regulations, as follows:

308 "(b) The commission is given the authority and charged with the duty of managing the  
 309 utilization of administrative space by all state entities, except that the Board of Regents of  
 310 the University System of Georgia and the Georgia Department of Labor may manage their  
 311 its own space but only for leases that are for a term of one year or less, within the State of  
 312 Georgia, and required for ~~their~~ its core mission. The commission shall manage the

313 utilization of administrative space for all multiyear lease agreements entered into on behalf  
314 of any state entity, including the Board of Regents of the University System of Georgia and  
315 ~~the Georgia Department of Labor~~. The commission shall manage in a manner that is the  
316 most cost efficient and operationally effective and which provides decentralization of state  
317 government. Such management shall include the authority to assign and reassign  
318 administrative space to state entities based on the needs of the entities as determined by  
319 standards for administrative space utilization promulgated by the commission pursuant to  
320 subsection (g) of this Code section and shall include the obligation to advise the Office of  
321 Planning and Budget and state entities of cost-effective, decentralized alternatives."

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**SECTION 6.**

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

326

**SECTION 7.**

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