

Chapter 337

(Senate Bill 744)

AN ACT concerning

Housing and Community Development – Affordable Housing – ~~Listing and Disposal~~ of Excess Real Property

FOR the purpose of requiring the Department of Planning to provide a list of excess real property owned by the State to the Department of Housing and Community Development; requiring the Department of Housing and Community Development to determine whether any of the listed properties are suitable for use or redevelopment as affordable housing; requiring units of State government to develop proposals to donate ~~or sell, sell, or lease~~ or sell excess real property determined to be suitable for use or redevelopment as affordable housing; requiring the Comptroller to distribute a certain amount of income tax revenue from individuals to the Rental Housing Fund on or before a certain date; and generally relating to ~~the listing and disposal~~ of excess real property ~~for use as~~ and affordable housing.

BY adding to

Article – Housing and Community Development
Section 2–203
Annotated Code of Maryland
(2019 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, without amendments,

Article – Housing and Community Development
Section 4–504(b), (c), and (d)
Annotated Code of Maryland
(2019 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,

Article – Housing and Community Development
Section 4–504(e)
Annotated Code of Maryland
(2019 Replacement Volume and 2021 Supplement)

~~BY repealing and reenacting, with amendments,~~

~~Article – Housing and Community Development
Section 4–504(e)
Annotated Code of Maryland
(2019 Replacement Volume and 2021 Supplement)
(As enacted by Section 1 of this Act)~~

BY repealing and reenacting, without amendments,

Article – State Finance and Procurement

Section 5–310(a) and (b)
Annotated Code of Maryland
(2021 Replacement Volume)

BY adding to
Article – State Finance and Procurement
Section 5–310(d)
Annotated Code of Maryland
(2021 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 10–305(b) ~~and 10–306(e)~~
Annotated Code of Maryland
(2021 Replacement Volume)

BY adding to
Article – Tax – General
Section 2–605.2
Annotated Code of Maryland
(2016 Replacement Volume and 2021 Supplement)

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

Article – Housing and Community Development

4–504.

(b) There is a Rental Housing Fund.

(c) The Department shall use the Fund to operate, make loans, and pay expenses of the Rental Housing Program, including reserves for anticipated future losses directly related to the Rental Housing Program, as provided in the State budget.

(d) The Department shall administer the Fund either directly or through the Administration.

(e) The Fund consists of:

(1) money appropriated by the State for the Rental Housing Program under § 4–402 of this title;

(2) repayments and prepayments of loans made under the Rental Housing Program and from loan programs under this title that have been repealed;

(3) money appropriated under § 4-501(c) of this subtitle;

(4) money transferred to the Fund in accordance with §§ 4-502(e), 4-503(d), and 4-505(h) of this subtitle and § 3-203(i) of this article;

(5) funds received by the Department or the Administration from the federal government or other public or private sources; [and]

(6) investment earnings of the Fund; AND

(7) REVENUE DISTRIBUTED TO THE FUND UNDER § 2-605.2 OF THE TAX – GENERAL ARTICLE.

Article – Tax – General

2-605.2.

AFTER MAKING THE DISTRIBUTIONS REQUIRED UNDER §§ 2-604 AND 2-605 OF THIS SUBTITLE, ON OR BEFORE JUNE 30, 2022, THE COMPTROLLER SHALL DISTRIBUTE \$30,000,000 OF THE INCOME TAX REVENUE FROM INDIVIDUALS TO THE RENTAL HOUSING FUND ESTABLISHED UNDER § 4-504 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Housing and Community Development

2-203.

~~(A) IN THIS SECTION, “AFFORDABLE HOUSING” MEANS RESIDENTIAL PROPERTY THAT IS:~~

~~(1) RENTED TO THE PUBLIC AT A RATE THAT ALLOWS IS AFFORDABLE FOR A HOUSEHOLD OF LOW OR MODERATE INCOME IN THE STATE TO PAY NOT MORE THAN 30% OF ITS MONTHLY INCOME IN RENT; OR~~

~~(2) SOLD TO THE PUBLIC AT A PRICE THAT IS AFFORDABLE TO A HOUSEHOLD OF LOW OR MODERATE INCOME IN THE STATE.~~

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “AFFORDABLE HOUSING” MEANS RESIDENTIAL PROPERTY THAT IS RENTED OR SOLD TO THE PUBLIC AS LOW-INCOME HOUSING OR WORKFORCE HOUSING.

(3) “AREA MEDIAN INCOME” HAS THE MEANING STATED IN § 4-1801 OF THIS ARTICLE.

(4) “LOW-INCOME HOUSING” MEANS HOUSING THAT IS AFFORDABLE FOR A HOUSEHOLD WITH AN AGGREGATE ANNUAL INCOME THAT IS BELOW 60% OF THE AREA MEDIAN INCOME.

(5) “WORKFORCE HOUSING” HAS THE MEANING STATED IN § 4-1801 OF THIS ARTICLE.

(B) (1) (I) ~~ON RECEIPT OF THE LIST OF EXCESS REAL PROPERTY NOT LATER THAN 60 DAYS AFTER THE NOTICE~~ PROVIDED UNDER ~~§ 5-310~~ 5-310(D) OF THE STATE FINANCE AND PROCUREMENT ARTICLE, THE DEPARTMENT SHALL, IN CONSULTATION WITH THE ~~UNITS~~ UNIT OF STATE GOVERNMENT THAT ~~CONTROL THE PROPERTIES~~ CONTROLS THE PROPERTY, DETERMINE IF ~~ANY OF THE LISTED PROPERTIES ARE~~ THE PROPERTY IS SUITABLE FOR USE OR REDEVELOPMENT AS AFFORDABLE HOUSING.

(II) THE DEPARTMENT SHALL IDENTIFY A PROPERTY AS SUITABLE FOR USE OR REDEVELOPMENT AS AFFORDABLE HOUSING IF THE PROPERTY:

1. IS LOCATED IN AN AREA DESIGNATED AS A PRIORITY FUNDING AREA UNDER TITLE 5, SUBTITLE 7B OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

2. DOES NOT BELONG IN A CATEGORY OF PROPERTY LISTED IN § 5-310(C)(1)(I) OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

3. IS ADEQUATELY SIZED FOR ANY TYPE OF RESIDENTIAL USE;

4. HAS ACCESS TO PUBLIC UTILITIES; AND

5. HAS ACCESS TO FEASIBLE INGRESS AND EGRESS POINTS.

(III) THE DEPARTMENT MAY CONSIDER OTHER FACTORS IN ADDITION TO THE PROVISIONS OF SUBPARAGRAPH (II) OF THIS PARAGRAPH WHEN

DETERMINING THE SUITABILITY OF A PROPERTY FOR USE OR REDEVELOPMENT AS AFFORDABLE HOUSING.

(2) ~~ON OR BEFORE DECEMBER 31, 2023, AND EACH DECEMBER 31 THEREAFTER, THE~~ THE DEPARTMENT SHALL COMPILE AND REGULARLY UPDATE A LIST OF PROPERTIES IT HAS DETERMINED ARE SUITABLE FOR USE OR REDEVELOPMENT AS AFFORDABLE HOUSING.

(3) FOR EACH PROPERTY INCLUDED IN THE LIST REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE DEPARTMENT SHALL:

(I) GIVE NOTICE OF THE DETERMINATION TO:

1. THE UNIT OF STATE GOVERNMENT THAT CONTROLS THE PROPERTY; AND

2. THE STATE TREASURER; AND

(II) ADVISE THE UNIT OF STATE GOVERNMENT OF THE REQUIREMENTS OF SUBSECTION (C) OF THIS SECTION.

(4) THE LIST REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE MADE AVAILABLE TO THE PUBLIC.

(C) (1) (I) EXCEPT AS PROVIDED IN PARAGRAPHS (4) AND (5) OF THIS SUBSECTION, ON RECEIPT OF THE NOTICE REQUIRED UNDER SUBSECTION (B)(3) OF THIS SECTION, ~~A~~ THE UNIT OF STATE GOVERNMENT SHALL, IN CONSULTATION WITH THE DEPARTMENT AND THE DEPARTMENT OF PLANNING, DEVELOP A PROPOSAL TO ~~DISPOSE OF~~ DONATE, SELL, OR LEASE DONATE OR SELL THE LISTED PROPERTY BY:

1. DONATING OR SELLING THE PROPERTY TO A NONPROFIT ORGANIZATION THAT ~~INTENDS~~ CONTRACTS TO USE OR REDEVELOP THE PROPERTY AS AFFORDABLE HOUSING; OR ~~OR~~

2. SELLING THE PROPERTY TO A BUYER THAT ~~INTENDS~~ CONTRACTS TO USE OR REDEVELOP THE PROPERTY AS AFFORDABLE HOUSING; OR

~~3. LEASING THE PROPERTY TO A LESSEE THAT CONTRACTS TO USE THE PROPERTY AS AFFORDABLE HOUSING.~~

(II) IF, AFTER REASONABLE EFFORT, THE UNIT IS UNABLE TO IDENTIFY A SUITABLE NONPROFIT ORGANIZATION ~~OR BUYER, BUYER, OR LESSEE~~ OR BUYER IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE UNIT SHALL DEVELOP A PROPOSAL TO SELL THE PROPERTY AT AUCTION.

(III) A PROPOSAL DEVELOPED UNDER THIS PARAGRAPH SHALL BE SUBMITTED TO THE BOARD OF PUBLIC WORKS FOR CONSIDERATION IN ACCORDANCE WITH § 10-305 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE UNIT OF STATE GOVERNMENT SHALL CONSIDER THE PROPOSED PERIOD OF AFFORDABILITY, THE NUMBER OF AFFORDABLE HOUSING UNITS CREATED, AND THE VIABILITY OF AN OFFER WHEN EVALUATING OFFERS FROM MULTIPLE NONPROFIT ORGANIZATIONS OR BUYERS UNDER THIS SUBSECTION.

~~(2) ANY PROCEEDS FROM A SALE OF EXCESS REAL PROPERTY THAT RESULTS FROM A PROPOSAL DEVELOPED UNDER THIS SUBSECTION SHALL BE APPLIED TO THE RENTAL HOUSING FUND UNDER § 4-504 OF THIS ARTICLE.~~

~~(3) WHEN A PROPERTY IS DISPOSED OF DONATED, SOLD, OR LEASED~~ DONATED OR SOLD IN ACCORDANCE WITH A PROPOSAL DEVELOPED UNDER THIS SUBSECTION, THE UNIT SHALL GIVE NOTICE OF THE DISPOSITION TO THE DEPARTMENT.

~~(4) A UNIT MAY NOT PROPOSE TO DISPOSE OF DONATE, SELL, OR LEASE~~ DONATE OR SELL A PROPERTY UNDER THIS SUBSECTION ~~IN A MANNER THAT~~ IF THE DONATION OR SALE WOULD:

(I) VIOLATE ANY COVENANT OR APPLICABLE FEDERAL LAW; OR

(II) IN THE OPINION OF THE STATE TREASURER, ADVERSELY AFFECT THE TAX-EXEMPT STATUS OF AN OUTSTANDING STATE BOND, THE PROCEEDS OF WHICH WERE ALLOCATED TO PURCHASE OR IMPROVE THE PROPERTY.

(5) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO SUPERSEDE THE RIGHT OF A PERSON FROM WHOM REAL PROPERTY WAS ACQUIRED OR THEIR SUCCESSOR IN INTEREST TO REACQUIRE THE PROPERTY UNDER § 8-309 OF THE TRANSPORTATION ARTICLE.

(D) ON OR BEFORE DECEMBER 31, 2024, AND EACH DECEMBER 31 THEREAFTER, THE DEPARTMENT SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE:

(1) THE NUMBER OF PROPOSALS SUBMITTED TO THE BOARD OF PUBLIC WORKS UNDER THIS SECTION;

(2) THE NUMBER OF PROPERTIES THAT WERE DONATED PURSUANT TO PROPOSALS DEVELOPED UNDER THIS SECTION; AND

(3) THE NUMBER OF PROPERTIES THAT WERE SOLD ~~OR LEASED~~ PURSUANT TO PROPOSALS DEVELOPED UNDER THIS SECTION; AND

~~(4) THE TOTAL AMOUNT OF PROCEEDS APPLIED TO THE RENTAL HOUSING FUND AS A RESULT OF PROPOSALS DEVELOPED UNDER THIS SECTION.~~

~~4-504.~~

~~(b) There is a Rental Housing Fund.~~

~~(c) The Fund consists of:~~

~~(1) money appropriated by the State for the Rental Housing Program under § 4-402 of this title;~~

~~(2) repayments and prepayments of loans made under the Rental Housing Program and from loan programs under this title that have been repealed;~~

~~(3) money appropriated under § 4-501(e) of this subtitle;~~

~~(4) money transferred to the Fund in accordance with §§ 4-502(e), 4-503(d), and 4-505(h) of this subtitle and § 3-203(i) of this article;~~

~~(5) funds received by the Department or the Administration from the federal government or other public or private sources; [and]~~

~~(6) investment earnings of the Fund; [and]; AND~~

~~(7) revenue distributed to the Fund under § 2-605.2 of the Tax General Article; AND~~

~~(7) (8) PROCEEDS FROM SALES OF EXCESS REAL PROPERTY CONDUCTED IN ACCORDANCE WITH PROPOSALS DEVELOPED UNDER § 2-203(C) OF THIS ARTICLE.~~

Article – State Finance and Procurement

5-310.

(a) Each unit of the State government shall notify the Department in writing of:

(1) any real property that is in excess of the needs of the unit; or

(2) any substantial change to any real property owned by the State.

(b) Subject to subsection (c) of this section, for any real property identified under subsection (a) of this section, the Department shall:

(1) study the proper disposition of the property;

(2) determine whether any local government or unit of the State government is interested in the property; and

(3) make an appropriate recommendation to the using unit of the State government and to the Board of Public Works.

~~(D) ON OR BEFORE JUNE 1, 2023, AND EACH JUNE 1 THEREAFTER, THE~~ THE DEPARTMENT SHALL PROVIDE A LIST OF ALL PROPERTIES NOTIFY THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE ENVIRONMENT AND TRANSPORTATION COMMITTEE, AND THE HOUSE APPROPRIATIONS COMMITTEE OF ANY PROPERTY SUBMITTED TO THE DEPARTMENT UNDER SUBSECTION (A)(1) OF THIS SECTION WHICH ~~HAVE~~ HAS NOT BEEN DONATED, SOLD, OR LEASED DISPOSED OF UNDER SUBSECTION (B) OF THIS SECTION TO THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE ENVIRONMENT AND TRANSPORTATION COMMITTEE, AND THE HOUSE APPROPRIATIONS COMMITTEE.

10-305.

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

1. real property identified under § 5-310(c)(1) of this article;

and

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

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

1. leasing the property; or

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

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

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

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

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

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

1. a description of the property; and

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

(iii) 45 days have elapsed since:

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

2. the Board declared the property surplus; and

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

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

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

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

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

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

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

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

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

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

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

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

(6) ~~(H)~~ IF THE BOARD HAS DECLARED THE PROPERTY SURPLUS, THE BOARD SHALL DISPOSE OF DONATE, SELL, OR LEASE THE DONATE OR SELL THE PROPERTY DETERMINED BY THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT TO BE SUITABLE FOR USE OR REDEVELOPMENT AS AFFORDABLE HOUSING IN ACCORDANCE WITH A PROPOSAL DEVELOPED UNDER § 2-203 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE.

~~(H) ANY REVENUES DERIVED FROM THE SALE, TRANSFER, EXCHANGE, OR GRANT OF PROPERTY IN ACCORDANCE WITH A PROPOSAL DEVELOPED UNDER § 2-203 OF THE HOUSING AND COMMUNITY DEVELOPMENT~~

~~ARTICLE SHALL BE DEPOSITED IN THE RENTAL HOUSING FUND UNDER § 4-504 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE.~~

~~10-306.~~

~~(e) (1) THIS SUBSECTION DOES NOT APPLY TO PROPERTY DISPOSED OF DONATED, SOLD, OR LEASED IN ACCORDANCE WITH A PROPOSAL DEVELOPED UNDER § 2-203 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE.~~

~~(2) Except as provided in paragraphs [(2) and] (3) AND (4) of this subsection, if cash is received as consideration for the disposition of a capital asset of the State or any unit of the State government, the cash shall be applied to the State Annuity Bond Fund Account for the payment of the principal of and interest on the bonded indebtedness of the State.~~

~~[(2)] (3) If the capital asset is real property that is being leased or sold to a private party for the purpose of realizing a transit-oriented development as defined under § 7-101 of the Transportation Article, at the discretion of the State agency that is disposing of the property, all or a portion of the cash proceeds resulting from the transaction shall be deposited in the Baltimore City Community Enhancement Transit-Oriented Development Fund established under Title 15 of the Economic Development Article for the purposes of that Fund.~~

~~[(3)] (4) (i) If cash is received as consideration for the disposition of a capital asset, and if the capital asset was originally purchased with special funds, the cash shall be applied to the special fund.~~

~~(ii) Notwithstanding subparagraph (i) of this paragraph, cash received as consideration for the disposition of helicopters, auxiliary helicopter equipment, ground support equipment, or other capital equipment related to helicopters shall be applied to the State Annuity Bond Fund Account for the payment of the principal of and interest on the bonded indebtedness of the State.~~

~~[(4)] (5) If cash is received as consideration for the disposition of any real or personal property of the State or any unit of the State government, other than a capital asset, the cash shall be accounted for and paid into the State Treasury.~~

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2022.

SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect ~~October~~ June 1, 2022.

Approved by the Governor, May 12, 2022.