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COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

Legislative Session _____ 1990 _____

Bill No. _____ CB-95-1990 _____

Chapter No. _____ 73 _____

Proposed and Presented by _____ Chairman (By Request -
_____ County Executive) _____

Introduced by _____ Council Members Wineland, Casula, Castaldi,
_____ Bell, Pemberton, and MacKinnon _____

Co-Sponsors _____ Council Member Mills _____

Date of Introduction _____ October 16, 1990 _____

BILL

AN ACT concerning

Disposition of County Property

FOR the purpose of requiring that declarations of surplus property and approval of the disposition of such property must be approved by legislative act, requiring that an inventory of County property be approved by legislative act, requiring that any waiver and abatement, adjustment or deferral of County fees, charges or taxes be included in the act approving a disposition.

BY repealing and reenacting with amendments:

SUBTITLE 2. ADMINISTRATION.

Section 2-111.1,

The Prince George's County Code

(1987 Edition, 1989 Supplement).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Section 2-111.1 of the Prince George's County Code be and the same is hereby repealed and reenacted with the following amendments:

SUBTITLE 2. ADMINISTRATION.

DIVISION 2. COUNTY EXECUTIVE.

Sec. 2-111.1. Sale, lease, or other disposition of County property.

The County Executive shall be authorized to sell, lease or otherwise dispose of any County-owned real property, no longer needed for County use or in furtherance of a public purpose, in accordance with the following provisions:

(a) The County Executive shall establish an inventory of all real property and improvements titled in the name of Prince George's County, and all real property and improvements to which Prince George's County has an equitable or fee simple title. The inventory shall include properties acquired through tax sales, grants, purchases, eminent domain or by operation of law, including property transferred to the County from other governmental agencies and the Board of Education. Properties utilized for public rights-of-way shall be inventoried separately. The tax certificate for properties acquired through tax sales may be sold without regard to this Section at any time prior to the foreclosure of the right of redemption, in accordance with the provisions of State law.

(b) The County Executive shall present the inventory to the County Council no later than the first day of May each year for adoption by legislative act. Only those properties which are

contained within the adopted inventory shall be permitted to be proposed for lease, sale or disposal. The County Executive, at least once annually, shall review the inventory of all real property and improvements held in fee by Prince George's County and shall transmit, for the approval by [resolution] legislative act of the County Council, a list of all properties to be leased, offered for sale, or otherwise disposed of.

(c) Every property shall be adequately described and shall contain a statement of its acquisition cost, date of acquisition, present assessment value and where proposed for private sale, the proposed sale price, the name of the proposed purchaser and a list of the type and value of any waiver, abatement, adjustment or deferral of County fees, charges or taxes pertaining to the property.

(d) The County Executive shall give first priority for the purchase of any property to be offered for sale, to any municipality in which the property lies, in whole or in part, as well as to the Maryland-National Capital Park and Planning Commission, Washington Suburban Sanitary Commission and to the State. Notifications to these governmental bodies shall include a statement that the property may be purchased for public use only, and for an amount equal to the County's acquisition cost plus expenses incident to transfer. A letter of intent to purchase must be given to the County Executive within sixty (60) days after receipt by the governmental agency of the proposed disposition. If timely notice of intention to purchase is given to the County Executive, the

County Executive shall hold the property for a period of at least six (6) months or until notice of interest is withdrawn, whichever is earlier. During this holding period, the governmental body shall submit to the County Executive a proposed plan for the use of the property and any improvements, and proof of financial ability to operate and maintain any existing structures. To meet the requirement for public use, not more than ten percent (10%) of the usable space of any structure may be rented by the governmental agency acquiring the property for an amount exceeding the cost of maintaining and operating such space. The County Executive may, where the property requires the maintenance of a structure, require the municipality or State agency as a condition of holding the option open to maintain the property in at least the same condition as it was when the option became effective until the option is exercised or expires. Where more than one governmental agency makes a request to purchase, the County Executive may dispose of the property as he deems will best serve the County. Upon payment as described above, the County Executive shall convey title to the real property subject to the condition that the property will revert to the County if the public use is discontinued. Within sixty (60) days of the discontinuance of the public use, or after any extension which may be granted for good cause, a deed shall be executed transferring the property, in at least as good a condition as it was when received, back to the County. In such case, the governmental agency shall be reimbursed for the original cost of purchase. In addition, if any property which has reverted to the County is

subsequently sold for a sale price in excess of the appraised value of the property at the time it was declared surplus to County needs, the governmental agency shall also be reimbursed for the cost of improvements made to the principal structure, if any, on the property. If the County Executive is satisfied that another public use will replace one which has been discontinued, no transfer shall be required. As an alternative to the property reverting to the County, the governmental agency may reimburse the County for the fair market value of the property at the time it was conveyed to the governmental agency.

Where the County Executive finds it in the public interest to convey title to another governmental agency for less than the acquisition cost, he may so convey provided he sets forth reasonable justification, in writing, to the County Council prior to the sale.

(e) The County Executive may propose a plan for disposition of County property through sale, lease, or other conveyance to public or private parties under terms and conditions which will, in the determination of the County Executive, promote a specific public purpose, limited to elderly housing, affordable family housing, transportation, not-for-profit sport and recreational uses, and day care centers for children or adults. The plan for disposition, including the public purpose to be served and the terms of the conveyance, shall be submitted to the County Council, and the County Executive shall be authorized to proceed with the disposition upon approval by the County Council by [Resolution] legislative act.

(f) When the property is not to be acquired by a governmental

agency, the County Executive shall advertise the availability of such property in at least two (2) newspapers of general circulation in the County, so as to provide an opportunity for any interested person to submit a contract to purchase or lease such property. Any contract may be negotiated and accepted by the County Executive subject to approval by [resolution] legislative act of the County Council. When no purchaser is specifically identified, the County Executive may sell the property to the highest bidder at a public sale. No disposition of any surplus property may be permitted without Council approval by [resolution] legislative act declaring the property surplus to County needs and, where proposed for sale, approving a minimum sales price as required by Subsection 2-111.1(b) and (c).

(g) Except for property proposed for disposition pursuant to Subsections (d) and (e), a natural person, corporation, other legal entity, or the heirs of a natural person from whom property was acquired by the County, shall have the first right over any other person to reacquire the property (or such portion of it which is declared surplus) if all of the following conditions are met:

(1) The property was acquired by the County through grant, purchase, or eminent domain within the last twenty-five (25) years. Such property shall include that acquired by the County from a governmental agency. It shall not include acquisition through purchase at tax sale.

(2) The determination of the County Executive that the property is surplus occurs within twenty-five (25) years after

County acquisition or in the case of an acquisition from another governmental agency the determination occurs within twenty-five (25) years after the acquisition by that agency.

(3) The former owner or heir has asserted his right to reacquire the property within sixty (60) days after the following have occurred:

(A) The County shall send notice of the previous owner's right of reacquisition by first class mail to his last known address. The last known address of the previous owner shall be presumed to be that address set forth in the tax assessment records for the year that the subject property was acquired unless the County shall have been notified in writing of a different address; and

(B) Similar notification shall be published for a period of three (3) successive weeks in the County newspapers of record.

(4) The repurchase price shall be the price approved by [resolution] legislative act of the Council, or where no price is fixed, the fair market value at the time the property is sold. The repurchase price proposed for approval by [Council resolution] legislative act shall be equal to the amount originally paid for the property, plus the cost of any improvements made to the property since acquisition, plus the amount of County taxes which would have been payable on the property since acquisition, plus any expenses of the County relative to the property including any expenses incidental to acquisition and to retransfer. In cases where the

price is not approved by the Council, and the Executive and previous owner cannot agree on the fair market value, the previous owner(s) shall have the right to agree to purchase at an appraised value determined by an independent appraiser selected by agreement between the parties. The cost of the appraisal shall be paid by the previous owner.

(h) The County Executive, as an alternative to the sale of property, may propose the leasing of County-owned property. Said proposals shall include, but need not be limited to, the maximum lease periods including renewal rights and the minimum rentals to be charged. Notwithstanding the provisions of this Section requiring approval by [resolution of the County Council] legislative act, the County Executive may authorize the leasing of any County-owned property for a maximum lease period of one (1) year or less, with no renewal rights.

(i) When the property to be disposed of, whether by sale or lease, is a surplus school within a municipality, the municipality will be given notice of any proposed adaptive reuse of the school immediately upon receipt of the proposal. In the event that a municipality, within thirty (30) days of the notice, objects in writing to a proposal for reuse of a surplus school, the County Executive or his designee shall schedule and give not less than fourteen (14) days notice of a public hearing on the proposal. Said hearing shall be held in the municipality.

(j) The approval by [resolution of the County Council] legislative act of the sale, lease, or other disposition of County-

owned property, shall be an authorization to the County Executive to act within two (2) years of the date of the [resolution] legislative act. The authority shall extend to all properties enumerated in the [resolution] legislative act irrespective of whether the County held title in a governmental or proprietary capacity or the property is impressed with a public trust.

(k) When the County becomes the owner of a parcel of real property which cannot be developed in accordance with the minimum requirements of Subtitle 27 of this Code due to size or configuration and is less than five thousand (5,000) square feet in size, the parcel shall immediately become surplus upon Executive Order without further action by the County Executive or the County Council. Such property may be offered for sale at the fair market value if it is equal to, or greater than, the amount of any outstanding taxes, interest, and penalties due on the property, plus administrative costs incident to transfer. Properties of this nature will be included and so designated in the inventory required under this Subtitle.

(l) When the County acquires a parcel of real property through a floodplain acquisition program, the parcel shall immediately become surplus upon Executive Order executed not less than forty-five (45) days after notice of the County Council without further action by the County Executive or the County Council. Such property may be offered for sale to the Maryland-National Capital Park and Planning Commission in accordance with Subsection (d), or leased or offered for sale to the adjacent landowner(s) or neighborhood

homeowners association at the fair market value which shall include the amount of any outstanding taxes, interest, and penalties due on the property, plus costs incident to transfer. All contracts for the sale of such property shall be accompanied by fully executed restrictive covenants designed to protect the floodplain and reflect the restrictions as imposed by law.

(m) All properties disposed of pursuant to the provisions of this Section shall be advertised in accordance with the provisions of Article 25A, Section 5(b), of the Annotated Code of Maryland for three (3) successive weeks in the County newspapers of record prior to public sale, setting forth the particulars as to where, when, and to whom objections may be filed. No disposition of property shall be final until any objections timely filed have been reviewed by the County Executive and written notice is given to the lessee or purchaser that all objections, if any, to the lease or sale have been reviewed and that there is no legal reason why the lease or sale should not be final.

(n) This Section shall have no application to the disposition by lease of the Prince George's County Hospital System, consisting of the Prince George's General Hospital and Medical Center, the Greater Laurel Beltsville Hospital, and the Bowie Health Center. County law relating to that disposition by lease is contained in Division 3 of Subtitle 12.

SECTION 2. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45) calendar days after it becomes law.

Adopted this 13th day of November, 1990.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Jo Ann T. Bell
Chairman

ATTEST:

Jean M. Schmuhl, CMC
Clerk of the Council

APPROVED:

DATE: November 28, 1990

BY: _____
Parris N. Glendening
County Executive

KEY:

Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.