

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

2002 Legislative Session

Bill No. CB-77-2002

Chapter No. 65

Proposed and Presented by The Chairman (by request – County Executive)

Introduced by Council Member Bailey

Co-Sponsors _____

Date of Introduction July 30, 2002

EMERGENCY BILL

1 AN EMERGENCY ACT concerning

2 County Real Property

3 For the purpose of amending the provisions of the Code regarding the procedure for inventory
4 and disposition of County real property.

5 BY repealing and reenacting with amendments:

6 SUBTITLE 2. ADMINISTRATION.

7 Section 2-111.01,

8 The Prince George's County Code

9 (1999 Edition, 2001 Supplement).

10 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
11 Maryland, that Section 2-111.01 of the Prince George's County Code be and the same is hereby
12 repealed and reenacted with the following amendments:

13 SUBTITLE 2. ADMINISTRATION.

14 DIVISION 2. COUNTY EXECUTIVE.

15 **Sec. 2-111.01. Sale, lease, or other disposition of County property.**

16 The County Executive shall be authorized to sell, lease, or otherwise dispose of any
17 County-owned real property, when such property is no longer needed for County use or when the
18 proposed disposition is in furtherance of a public purpose, including a sale/leaseback or a
19 lease/leaseback, in accordance with the following provisions:

20 (a) The County Executive shall establish an inventory of all real property and
21 improvements titled in the name of Prince George's County, and all real property and

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

8 (b) The County Executive shall present the inventory to the County Council no later than
 9 the first day of May each year [for adoption by legislative act]. Only those properties which are
 10 contained within the [adopted] inventory shall be permitted to be proposed for lease, sale, or
 11 disposal. Revisions to the inventory shall be submitted as necessary. The County Executive, at
 12 least once annually, shall review the inventory of all real property and improvements held in fee
 13 by Prince George's County and shall transmit, for the approval by [legislative act] resolution of
 14 the County Council, a list of all properties to be leased, offered for sale, or otherwise disposed of.

15 * * * * *

16 (d) [The] Except when the proposed disposition is a sale/leaseback, the County Executive
 17 shall give first priority for the purchase of any property to be offered for sale to any municipality
 18 in which the property lies, in whole or in part, as well as to the Maryland-National Capital Park
 19 and Planning Commission, Washington Suburban Sanitary Commission, and to the State.
 20 Notifications to these governmental bodies shall include a statement that the property may be
 21 purchased for public use only, and for an amount equal to the County's acquisition cost plus
 22 expenses incident to transfer. A letter of intent to purchase must be given to the County
 23 Executive within [sixty (60)] thirty (30) days after receipt by the governmental agency of the
 24 proposed disposition. If timely notice of intention to purchase is given to the County Executive,
 25 the County Executive shall hold the property for a period of at least [six (6) months] sixty (60)
 26 days or until notice of interest is withdrawn, whichever is earlier. During this holding period, the
 27 governmental body shall submit to the County Executive a proposed plan for the use of the
 28 property and any improvements, and proof of financial ability to operate and maintain any
 29 existing structures. To meet the requirement for public use, not more than ten percent (10%) of
 30 the usable space of any structure may be rented by the governmental agency acquiring the
 31 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,] Following evaluation of all proposals for disposition of the property, 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] Disposition of the property to the Maryland-National Capital Park and Planning Commission, Washington Suburban Sanitary Commission, any municipality, or the State shall be 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. Whenever a property is proposed for disposition by sale to the Maryland-National Capital Park and Planning Commission, the purchase price to the Commission shall be the present value of the remaining bonded indebtedness attributable to the property.

(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

1 uses, and day care centers for children or adults. The plan for disposition, including the public
 2 purpose to be served and the terms of the conveyance, shall be submitted to the County Council,
 3 and the County Executive shall be authorized to proceed with the disposition upon approval by
 4 the County Council by [legislative act] resolution.

5 (f) When the property is not to be acquired by a governmental agency, the County
 6 Executive shall advertise the availability of such property in at least two (2) newspapers of
 7 general circulation in the County, so as to provide an opportunity for any interested person to
 8 submit a contract to purchase or lease such property. Any contract may be negotiated and
 9 accepted by the County Executive subject to approval by [legislative act] resolution of the
 10 County Council. When no purchaser is specifically identified, the County Executive may sell the
 11 property to the highest bidder at a public sale. No disposition of any surplus property may be
 12 permitted without Council approval by [legislative act] resolution declaring the property surplus
 13 to County needs and, where proposed for sale, approving a minimum [sale's] sale price as
 14 required by Subsection 2-111.01(b) and (c).

15 (g) The County Executive shall be authorized to sell, lease or otherwise dispose of any
 16 County-owned property, and to enter into a leaseback of the same to the County in furtherance of
 17 a public purpose, without complying with any of the other provisions of this Section 2-111.01 or
 18 Section 2-112 of the County Code, provided that the County Council has approved the sale, lease
 19 or other disposition and leaseback of such property by resolution. The County Executive shall
 20 cause notice of the proposed disposition to be given in accordance with Article 25A, Section
 21 5(B) of the Annotated Code of Maryland. The approval by resolution of the County Council of
 22 the sale, lease or other disposition of County-owned property and the leaseback of the same shall
 23 be an authorization to the County Executive to act within two (2) years of the effective date of
 24 the resolution upon such terms as the County Executive determines are in the best interests of the
 25 County, subject to any limitations contained in such resolution. Any contracts relating to the
 26 proposed sale, lease or other disposition and the leaseback of an approved property may be
 27 negotiated and accepted by the County Executive within two (2) years of the effective date of the
 28 County Council resolution. Notwithstanding the provisions of Section 2-112 of the County
 29 Code, lease payments or any other payments provided for with respect to a leaseback may be
 30 included in either the County's capital or operating budget. Any leaseback may be structured as
 31 a true lease such that upon expiration or termination of the leaseback, title to the property shall

1 remain in the person to whom the property was transferred in accordance with this Subsection
2 (g), or any leaseback may be structured as a lease-purchase or similar arrangement such that title
3 to the transferred property shall be acquired by the County upon expiration or termination of the
4 leaseback (subject to any remedies the lessor may have upon an event of default or event of non-
5 appropriation), as provided in any contracts negotiated and accepted by the County Executive
6 under the provisions of this Subsection (g), without further compliance with the provisions of
7 this Section 2-111.01 or Section 2-112 of the County Code. All documents or set of documents
8 pertaining to the solicitation of proposals and any development agreement, deed, lease,
9 construction contract or other document designed to implement a transaction authorized by this
10 subsection shall require that the construction portion of the project shall be considered a “public
11 work” constructed by a “public body” and that the provisions of Subtitle 2, Division 14 of the
12 County Code shall apply to the project as if the project were constructed directly by the County;
13 that the Purchasing Agent shall establish a goal for the utilization of minority contractors on the
14 project in accordance with the criteria contained in Section 10A-136 of the County Code; and
15 that any party performing construction work shall be considered a “contractor” and shall be
16 required to comply with the provisions of Subtitle 2, Division 14 and Subtitle 10A, Division 6,
17 Subdivision 1 of the County Code.

18 [(g)] (h) * * * * *

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

25 [(i)] (j) * * * * *

26 [(j)] (k) The approval by [legislative act] resolution of the County Council of the sale,
27 lease, or other disposition of County-owned property, shall be an authorization to the County
28 Executive to act within two (2) years of the date of the [legislative act] resolution. The authority
29 shall extend to all properties enumerated in the [legislative act] resolution irrespective of whether
30 the County held title in a governmental or proprietary capacity or the property is impressed with
31 a public trust.

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

10 [(l)] (m) * * * * * * * * *

11 [(m)] (n) * * * * * * * * *

12 [(n)] (o) * * * * * * * * *

13 (p) Wherever an approval by resolution of the County Council is required by this Section,
 14 a published notice and a public hearing shall be required prior to adoption of each resolution.
 15 Within five days following the introduction of the resolution, the Clerk of the Council shall
 16 schedule and give public notice of a public hearing on the resolution, which hearing shall not be
 17 less than fourteen days after its introduction. After the public hearing, a resolution may be
 18 finally adopted without amendment. If it is necessary to amend the resolution after the public
 19 hearing is held, a new public notice period and public hearing is required prior to adoption.

20 SECTION 2. BE IT FURTHER ENACTED that in accordance with the provisions of
 21 Section 317 of the Charter, the County Council hereby declares that a public emergency exists
 22 affecting the public health, safety, or welfare; said emergency being the need to amend the
 23 County procedures for disposition of property at the earliest possible time.

24 SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect on the date it
 25 becomes law.

Adopted this 7th day of October, 2002, by an affirmative vote of two-thirds of the members of the full County Council.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Peter A. Shapiro
Chair

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Wayne K. Curry
County Executive

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.

Asterisks *** indicate intervening existing Code provisions that remain unchanged.