



Sub. H.B. 19

123rd General Assembly
(As Passed by the General Assembly)

Reps. Schuler, Padgett, Britton, Clancy, Jones, Krebs, Terwilleger, Willamowski, Taylor, Amstutz, Mottley, Corbin, Patton, Haines, Hollister, Opfer, Vesper, Verich, Hartnett, Barnes

Sens. Spada, Blessing, Schafrath, Gardner, Horn

Effective date: *

ACT SUMMARY

- Requires that any instrument by which the state or a state agency acquires an interest in real property must specify the agency for whose use and benefit the interest in real property is acquired.
- Authorizes the board of park commissioners of a metropolitan park district to sell park lands for conservation uses or for park or recreation purposes, in accordance with specified procedures, to the state, a park district or other political subdivision of the state, or the federal government.
- Authorizes a board of county commissioners to donate personal property to the federal government, the state, or another political subdivision of the state.

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared.*

CONTENT AND OPERATION

Form of certain "interest in real property" instruments

Agency identification

Under the act, any instrument by which the state or an agency of the state acquires an interest in real property, including any deed, transfer, grant, reservation, agreement creating an easement, or lease, must identify the agency for whose use and benefit the interest in the real property is acquired. The act defines an "agency" for this purpose to mean every organized body, office, or agency established by the laws of Ohio for the exercise of any function of state government. (Sec. 5301.012(A) and (B).)

If the instrument involved conveys *less than a fee simple interest* in real property and if the agency has authority to hold an interest in property in its own name, the instrument must state that the interest in the real property is conveyed "To (the name of the agency)." Otherwise, the instrument must state that the interest in the real property is conveyed "To the State of Ohio for the use and benefit of (name of agency)." (Sec. 5301.012(C)(1).)

If the instrument involved conveys *a fee simple interest* in real property and if the agency has authority to hold a fee simple interest in real property in its own name, the instrument must state that the interest in the real property is conveyed "To the (name of agency) and its successors and assigns." Otherwise, an instrument that conveys a fee simple interest in the real property must state "To the State of Ohio and its successors and assigns for the use and benefit of (name of agency)." (Sec. 5301.012(C)(2).)

The act states that the purpose of specifying the name of the agency in an instrument is to identify the agency that has the use and benefit of the real property and that the identification of the agency does not confer on that agency any additional property rights in regard to the real property (sec. 5301.012(D)).

Miscellaneous related changes

Conforming provisions. The act amends a number of laws that authorize specific agencies of the state to acquire real property. The amendments specify in each instance that any instrument by which an agency acquires real property must identify the agency of the state that has the use and benefit of the real property as specified in the act's provisions described under "**Agency identification**," above. (Secs. 9.20, 121.181, 123.01, 123.04, 125.84, 149.302, 152.08, 152.21, 154.06, 154.16, 154.21, 154.22, 154.23, 163.02, 165.02, 175.04, 319.201, 901.63, 902.03,

991.07, 1501.01, 1514.301, 1515.08, 1517.17, 1519.02, 1523.01, 1551.12, 3301.481, 3354.09, 3354.13, 3355.06, 3355.10, 3357.09, 3357.12, 3358.08, 3375.40, 3375.831, 3377.04, 3377.14, 3706.04, 3747.06, 3747.14, 3793.031, 4582.06, 4582.31, 4981.14, 4981.32, 5119.37, 5120.46, 5123.22, 5501.32, 5503.02, 5519.01, 5529.03, 5537.06, 6121.04, 6123.04, and 6161.011.)

Tax liens provision. Under continuing law, whenever the state acquires an easement, right, title, or interest in a parcel or part of a parcel of real property upon which a lien for taxes has attached, the state agency acquiring the property must file a specified *evidence of title* by purchase or court order with the county auditor of the county in which the property is located. The act, while retaining this requirement, requires also that any evidence of title to real property that the state or an agency of the state files under this provision must identify the state agency that has the use and benefit of the property in accordance with the act's provisions described under "**Agency identification,**" above. (Sec. 319.201.)

Conveyance of land by metropolitan park districts

Background law

Under *generally* continuing law, if the board of park commissioners of a metropolitan park district finds that any land it has acquired is not necessary for the purposes for which it was acquired, the board may sell and dispose of the land on terms the board considers advisable. No land may be sold without the board first giving notice of its intention to sell the land by publication once a week for four consecutive weeks in not less than two English newspapers of general circulation in the park district. The notice must contain an accurate description of the land and state the time and place at which sealed bids will be received for the purchase of the land. The land cannot be sold at private sale for less than the highest and best bid so received without giving further similar notice. In addition, no land may be sold at either a public or private sale without the approval of the probate court of the county in which the land is situated. (Sec. 1545.12.)

Changes made by the act

The act generally continues the latter law (sec. 1545.12(A) and (C)) but also allows a board of park commissioners to sell land upon terms the board considers advisable, for conservation uses or for park or recreation purposes and *without the necessity of complying with the provisions described in the immediately preceding paragraph*, to any township park district, metropolitan park district, political subdivision, state department or agency, or federal department or agency. Before the board may sell land under these conditions, the board must offer the land for sale to each of the following "public agencies" that is authorized to acquire,

develop, and maintain land for conservation uses or for park and recreation purposes: (1) each township park district, metropolitan park district, or political subdivision in which the land is located, (2) each township park district, metropolitan park district, or political subdivision that adjoins a township park district, metropolitan park district, or political subdivision in which the land is located, and (3) each agency or department of the state or federal government that operates parks or conservation or recreation areas near the land. (Sec. 1545.12(B)(1) and (2).)

The board must make the offer by giving a written notice that the land is available for sale, by first class mail, to these public agencies. A failure of delivery of the written notice to any of these public agencies does not invalidate any proceedings for the sale of the land. Any public agency that is so notified and that wishes to purchase the land must make an offer to the board in writing not later than 60 days after receiving the written notice. (Sec. 1545.12(B)(2).)

If there is only one offer to purchase the land made in that 60-day period, the board need not hold a public hearing on the offer. The board must accept the offer only if it determines that acceptance of the offer will result in the best public use of the land. If there is more than one offer to purchase the land made in that 60-day period, the board must not accept any offers until the board holds a public hearing on the offers. If, after the hearing, the board decides to accept an offer, it must accept the offer that it determines will result in the best public use of the land. (Sec. 1545.12(B)(2).)

Land sold to a public agency under the act's new procedure is subject to the requirement of continuing law that the sale of land by a park district be approved by the probate court of the county in which the land is located (sec. 1545.12(C)).

Donation of personal property by a board of county commissioners

Continuing and former law

Under continuing law, when the board of county commissioners finds, by resolution, that the county has personal property, including motor vehicles, road machinery, equipment, tools, or supplies, which is not needed for public use, or is obsolete or unfit for the use for which it was acquired, and when the fair market value of the personal property is, in the opinion of the board, *in excess of \$2,500*, the board *generally* may either sell the property at public auction or by sealed bid to the highest bidder or donate any motor vehicle that does not exceed \$4,500 in value to a specified type of nonprofit, tax-exempt organization for meeting transportation needs of Ohio Works First Program and Prevention, Retention, and

Contingency Program participants. Publication and posting of notice is required for sales by public auction or by sealed bid. (Sec. 307.12(A)(1) and (2).)

Under continuing law, when the board of county commissioners finds, by resolution, that its personal property has a fair market value of \$2,500 or less and is not needed for public use or is obsolete or unfit for its intended use, the board may sell the property by private sale, without advertisement or public notification. Former law also provided that a board could *sell* "unneeded, obsolete, or unfit" personal property, *regardless of fair market value*, to the federal government, the state, or any political subdivision of the state without advertisement or public notification. (Sec. 307.12(B).)

Changes made by the act

The act authorizes a board of county commissioners to sell or *donate* personal property, including motor vehicles, of the county to the federal government, the state, or any political subdivision of the state without advertisement or public notification and regardless of the property's fair market value. The act removes the specification that the personal property to be sold or donated to another governmental entity must be property that is not needed for public use or that is obsolete or unfit for its intended use. (Sec. 307.12(B).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-20-99	pp. 87-88
Reported, H. State Gov't	03-09-99	p. 269
Passed House (95-0)	03-24-99	pp. 349-351
Reported, S. State & Local Gov't & Veterans Affairs	06-01-99	p. 514
Passed Senate (32-0)	06-02-99	pp. 521-522
Concurrence (97-0)	06-03-99	pp. 759-760

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