

# MAINE STATE LEGISLATURE

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(New Draft of H.P. 414, L.D. 548)  
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1567

H.P. 1152 House of Representatives, May 14, 1987  
Reported by Representative CARROLL from the Committee on  
State and Local Government and printed under Joint Rule 2.

EDWIN H. PERT, Clerk

Original bill sponsored by Representative SPROUL of  
Augusta. Cosponsored by Representative WENTWORTH of Wells,  
Senators TUTTLE of York and GOULD of Waldo.

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-SEVEN

AN ACT Relating to the Disposition of Surplus  
Real Estate.

Be it enacted by the People of the State of Maine as  
follows:

Sec. 1. 1 MRSA c. 22 is enacted to read:

CHAPTER 22

SALE OF STATE-OWNED REAL ESTATE

§821. Definitions

As used in this chapter, unless the context indi-  
cates otherwise, the following terms have the follow-  
ing meanings.

1           1. Appraised value. "Appraised value" means the  
2 value arrived at by a professional real estate ap-  
3 praiser who is regularly engaged in the occupation of  
4 providing real estate valuation services for a fee or  
5 salary or who is deemed qualified by a nationally  
6 recognized real estate appraisal educational organi-  
7 zation.

8           2. Commissioner. "Commissioner" means the Com-  
9 missioner of Administration.

10           3. Department. "Department" means the Depart-  
11 ment of Administration.

12           4. State-owned real estate. "State-owned real  
13 estate" means real estate owned exclusively by the  
14 State in fee simple.

15 §822. Sale of state-owned real estate

16           Notwithstanding any other provisions of law, if  
17 any department or agency of State Government, subject  
18 to Title 5, chapters 141 to 155, intends to offer for  
19 sale or sells any real estate, including buildings  
20 and other types of structures, the sale shall be con-  
21 ducted by the commissioner or his designee.

22           1. Exclusion of certain types of real estate.  
23 This chapter does not apply to real estate which is  
24 to be sold or exchanged in a transaction which in-  
25 volves the acquisition of real estate by the State in  
26 exchange for the real estate being sold. This chap-  
27 ter does not apply to any real estate that was pur-  
28 chased in whole or in part with federal money and the  
29 disposal of which is subject to federal regulation.

30           2. Exclusion of state agencies. The following  
31 departments, agencies and appointed officials are ex-  
32 empt from this chapter, but nothing prohibits these  
33 agencies from requesting the commissioner to sell  
34 real estate of these agencies nor may the commis-  
35 sioner be prohibited from selling real estate for these  
36 agencies:

37           A. The Department of Conservation;

38           B. The State Tax Assessor pursuant to Title 30,  
39 section 5702 and Title 36, section 1283;

1           C. The Department of Transportation; and

2           D. The Maine State Retirement System.

3           3. Status of real estate. No state-owned real  
4 estate, subject to this chapter, may be sold unless  
5 the commissioner determines that the real estate is  
6 surplus and that no other agency or department of  
7 State Government has a need and use for the real es-  
8 tate.

9           4. Disposition of surplus real estate. Whenever  
10 any state-owned real estate is proposed for sale, or  
11 the title to state-owned real estate is proposed to  
12 be transferred to any person or organization outside  
13 State Government or political subdivision of the  
14 State, the Bureau of Public Improvements shall pro-  
15 vide notice to state agencies of the availability of  
16 the real estate. If no state agency responds to the  
17 notice or if no state agency indicates a need or use  
18 for the real estate, the real estate may be offered  
19 for sale as provided in section 823.

20           A. The Bureau of Public Improvements may retain  
21 jurisdiction over state-owned real estate for  
22 which no state agencies have indicated a need or  
23 use, particularly real estate for which the bu-  
24 reau believes there is potential need or use by  
25 state agencies.

26           §823. To whom real estate is to be offered

27           The department shall offer the real estate, ex-  
28 cept as provided in section 824 and 825, to the fol-  
29 lowing entities or persons in the following order.

30           1. Municipality. If the real estate is located  
31 within a municipality, the department shall offer to  
32 sell the real estate to the municipality at a price  
33 equal to at least 50% of the appraised value of the  
34 real estate.

35           2. County. The department shall offer to sell  
36 the real estate to the county in which the real es-  
37 tate is located at a price equal to at least 50% of  
38 the appraised value of the real estate.

1           3. Abettor. If the municipality and county in  
2 which the real estate is located reject the real es-  
3 tate offered under this chapter, the department shall  
4 offer the real estate to the abutors, except that  
5 the real estate shall be sold to only one abutting  
6 property owner. In the event that more than one  
7 abutting property owner wishes to purchase the real  
8 estate, the commissioner shall offer the real estate  
9 to the abutor presenting the highest bid in a sealed  
10 bidding process.

11           4. Bid. The department may sell the real estate  
12 to any other person by means of a competitive bid  
13 process.

14 §824. Sales to resolve encroachments and easements

15           The Bureau of Public Improvements may sell state-  
16 owned real estate to resolve encroachments and ease-  
17 ments on state-owned real estate which shall not be  
18 subject to the provisions of section 823. Any sale  
19 of state-owned real estate pursuant to this section  
20 shall be at the appraised fair market value of the  
21 real estate.

22 §825. Use of real estate sold to municipality or  
23 county

24           1. Reversion. Any deed conveying real estate  
25 sold to a municipality or county pursuant to this  
26 chapter shall contain a provision limiting the use of  
27 the real estate to a public purpose. The deed shall  
28 provide that if the real estate ceases to be used for  
29 a public purpose it shall revert to the State.

30           2. Purchase at appraised value. A municipality  
31 or county may purchase real estate under this chapter  
32 at the appraised value and be exempt from the rever-  
33 sion provision of this section.

34 §826. Rejection of bids

35           The Director of the Bureau of Public Improvements  
36 may reject any or all bids in whole or in part for  
37 the purchase of surplus state-owned real estate pur-  
38 suant to section 823. The director may waive any  
39 formality and technicality in any bid.

1     §827. Rules

2             The commissioner may, in accordance with the  
3     Maine Administrative Procedure Act, Title 5, chapter  
4     375, promulgate rules to carry out the purposes of  
5     this chapter.

6             Sec. 2. 12 MRSA §7035, sub-§9, as amended by PL  
7     1983, c. 819, Pt. A, §21, is further amended to  
8     read:

9             9. Unneeded property. The Governor, on recommen-  
10     dation of the commissioner, may sell and convey on  
11     behalf of the State the interests of the State in  
12     property taken or acquired by purchase under chapters  
13     701 to 721 and deemed no longer necessary for the  
14     purposes of those chapters. The commissioner, with  
15     the approval of the Governor, may lease these same  
16     properties. The proceeds from these sales or leases  
17     shall be credited to the funds of the department. Any  
18     real estate offered for sale under this subsection  
19     shall be in accordance with Title 1, chapter 22.

20                                     FISCAL NOTE

21             This new draft could result in a loss of undedi-  
22     cated General Fund revenues by allowing for the sale  
23     of state-owned real estate to municipalities and  
24     counties below the appraised value down to a lower  
25     limit of 50% of the appraised value. The amount of  
26     General Fund revenue lost will depend on the value  
27     and the price of the land sold. This amount cannot  
28     be determined at this time.

29                                     STATEMENT OF FACT

30             The purpose of this new draft is to make techni-  
31     cal corrections and some substantive changes. This  
32     new draft:

33             1. Establishes the Department of Administration  
34     in which the Bureau of Public Improvements is lo-

1 cated, as the administering agency with respect to  
2 the sale of surplus state-owned real estate;

3 2. Exempts real estate of the Maine State Re-  
4 tirement System from the provisions of this new  
5 draft;

6 3. Provides a procedure by which state-owned  
7 real estate is determined to be surplus. The Bureau  
8 of Public Improvements, upon notice by a department  
9 to the bureau to sell state property, will notify  
10 other state agencies to determine whether they have a  
11 need or use for the property. If no state agency de-  
12 clares a need or use for the property, the property  
13 is considered surplus and it may be sold by the Bu-  
14 reau of Public Improvements;

15 4. Allows the Bureau of Public Improvements to  
16 sell state-owned real estate to abutters with en-  
17 croachments and easements on state property;

18 5. Raises the minimum price for sale to municipi-  
19 palities and counties from 25% to 50% of the ap-  
20 praised value of real estate; and

21 6. Empowers the Bureau of Public Improvements to  
22 reject bids and portions of bids offered for surplus  
23 state-owned real estate.

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