

**PUBLIC CHAPTER NO. 118**

**HOUSE BILL NO. 1203**

**By Representatives Pinion, Fraley, Harmon**

**Substituted for: Senate Bill No. 1027**

**By Senator Tracy**

AN ACT to amend Tennessee Code Annotated, Section 12-2-112, relative to disposal of surplus interests in real property.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 12-2-112(a)(4), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(4) All interests in real property other than the fee interest, including, but not limited to, leases, easements and rights-of-way, shall be disposed of in accordance with policies established by the state building commission, including advertisement and appraisal where deemed appropriate by the state building commission; provided, however, that if such property was acquired by or for the use of the department of transportation for right-of-way, then the department of transportation may convey such interests in the property by negotiated sale or disposal to any legal governmental body for a public use purpose, subject to reversion to the department of transportation for failure to continue public ownership and use, or to the former owner or an adjoining owner for fair market value, in accordance with procedures established in subdivision (a)(8). This subdivision (a)(4) shall not apply to the disposal or conveyance in any manner of any interest or rights in minerals, coal, natural gas, oil, timber and any other energy related resources; provided, that the commission shall have authority to promulgate rules and regulations over such disposal or conveyances pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5,

SECTION 2. Tennessee Code Annotated, Section 12-2-112(a)(8), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(8)

(A) If such property was acquired by or for the use of the department of transportation for right-of-way, if its fair market value does not exceed seventy-five thousand dollars (\$75,000) or such amounts in excess of seventy-five thousand dollars (\$75,000) as may be approved by the state building commission, and if any adjoining property owner or the former owner of that property, wishes to purchase the same, or if a legal governmental body wishes to acquire the property for a public use purpose, then the provisions of this section shall not apply. Instead, the commissioner of transportation is authorized to declare the property surplus if the commissioner determines that the purpose of its acquisition

has been completed and that the property is no longer needed by the department of transportation or another state agency, and may sell it to any adjoining property owner or the former owner of that property, for an amount representing not less than the fair market value, together with costs; provided, however, that the department of transportation may convey the property or any interest in the property by negotiated sale or disposal to any legal governmental body for a public use purpose, subject to reversion to the department of transportation for failure to continue public ownership and use. The commissioner of finance and administration shall concur in the fair market value amount or in the negotiated sale or disposal of the property to a legal governmental body for a public use purpose. If in the judgment of the department of transportation a survey of the property is required, the prospective purchaser shall pay the department of transportation in advance for the cost of the survey;

(B) The former property owner's right shall terminate ten (10) years after the date of acquisition by the department of transportation by conveyance or date of taking in condemnation of the subject property by the department. The former property owner's right shall not transfer to such owner's heirs. The former property owner shall have first right of refusal to purchase the right-of-way; provided, however, that the department may convey the property or any interest in the property to a legal governmental body for a public use purpose, subject to reversion to the department of transportation for failure to continue public ownership and use, without offering the former owner a first right of refusal to purchase the property. If the former property owner relinquishes such owner's right or the right has expired, the property may be conveyed to an adjoining property owner. If more than one (1) adjoining property owner is interested in purchasing the right-of-way, the interested adjoining property owners shall submit sealed bids to the department of transportation, with the minimum bid price being the fair market value determined by appraisal, and the property may be conveyed to the adjoining property owner offering the highest responsive bid. The successful bidder shall reimburse any unsuccessful prospective purchaser for survey and appraisal costs incurred in accordance with the requirements of this subdivision(a)(8).

(C) For the purposes of this subdivision(a)(8), the fair market value of surplus right-of-way property shall be determined in accordance with the following procedures:

(i) The department of transportation shall make a preliminary planning estimate of the fair market value of the property in accordance with such procedures as the department may establish;

(ii) If the department of transportation's preliminary planning estimate of the fair market value of the property is ten thousand dollars (\$10,000) or less, the property shall be appraised

by an appraiser on staff with the department of transportation at no cost to the prospective purchaser;

(iii) If the department of transportation's preliminary planning estimate or subsequent staff appraisal of the fair market value of the property is greater than ten thousand dollars (\$10,000), the property shall be appraised by an independent appraiser whose services shall be procured by the department of transportation in accordance with state law. Such independent appraiser must be licensed and certified by the Tennessee Real Estate Appraiser Commission and shall be selected from a list of prequalified appraisers approved by the department of transportation. The prospective purchaser shall pay the department of transportation in advance for the cost of the independent appraisal;

(iv) The initial appraisal shall be subject to review and approval by the department of transportation in accordance with such procedures as the department of transportation may establish. The appraisal review shall be conducted, at the department of transportation's expense, by a review appraiser who is licensed and certified by the Tennessee Real Estate Appraiser Commission and who is either employed by or under contract with the department of transportation. The review appraiser shall either approve the initial appraisal or reject the initial appraisal and reappraise the property to determine the fair market value of the property, subject to the approval of the director of the right-of-way division of the department of transportation or the director's designee. If approved by the director or the director's designee, the review appraiser's determination shall be presented to a prospective purchaser as the fair market value of the property;

(v) If a prospective purchaser does not accept the appraised fair market value of the property as determined by the review appraiser, the prospective purchaser may request a final review and reconsideration by the commissioner of transportation or the commissioner's designee. The commissioner or the commissioner's designee shall obtain a final review of the appraisal by a review appraiser who is licensed and certified by the Tennessee Real Estate Appraiser Commission and who is either employed by or under contract with the department of transportation; provided, however, that the final review appraiser shall not be the same person who previously reviewed the initial appraisal. The prospective purchaser shall be given the opportunity to present information concerning the value of the property for the consideration of the final review appraiser. The final review appraiser shall consider all relevant information, including any appraisal previously performed by or for the department of transportation, and shall have the authority to reappraise or make adjustments in the appraised fair market

value, in accordance with generally accepted professional standards and guidelines. The final review appraiser's determination of the fair market value of the property shall be subject to the approval of the commissioner or the commissioner's designee; and

(vi) The department's final determination of the fair market value of the property is subject to the concurrence of the commissioner of finance and administration;

SECTION 3. Tennessee Code Annotated, Section 12-2-112(a), is amended by adding the following language as a new, appropriately designated subdivision:

( ) Notwithstanding any provisions of this section to the contrary, if property acquired by or for the use of the department of transportation for right-of-way has not been disposed of in accordance with the provisions of subdivision (8) or subdivision (9) of this subsection and no person or entity, including the former owner of that property, has been able and willing to purchase such property within five (5) years after the date such property has been offered for sale by the department of transportation, then such property may be sold at public auction pursuant to rules promulgated by the commissioner of transportation.

SECTION 4. This act shall take effect July 1, 2007, the public welfare requiring it.

**PASSED: April 23, 2007**

  
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JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

  
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RON RAMSEY  
SPEAKER OF THE SENATE

**APPROVED this 8th day of May 2007**

  
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PHIL BREDESEN, GOVERNOR