



General Assembly

January Session, 2011

Raised Bill No. 6567

LCO No. 4113

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Referred to Committee on Transportation

Introduced by:
(TRA)

**AN ACT CONCERNING THE DISPOSITION OF EXCESS STATE
PROPERTY ACQUIRED FOR TRANSPORTATION PURPOSES, AND
MAKING TECHNICAL REVISIONS TO REAL PROPERTY
ACQUISITION AND CONDEMNATION PROCEDURES.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 13a-80 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) The [commissioner] Commissioner of Transportation, with the
4 advice and consent of the Secretary of the Office of Policy and
5 Management and the State Properties Review Board may sell, lease
6 and convey, in the name of the state, or otherwise dispose of, or enter
7 into agreements concerning, any land and buildings owned by the
8 state and obtained for or in connection with highway purposes or for
9 the efficient accomplishment of the foregoing purposes or formerly
10 used for highway purposes, which real property is not necessary for
11 such purposes. The commissioner shall notify the state representative
12 and the state senator representing the municipality in which said
13 property is located within one year of the date a determination is made
14 that the property is not necessary for highway purposes and that the

15 department intends to dispose of the property.

16 (b) The Department of Transportation shall obtain a full appraisal
17 on excess property prior to its sale and shall hold a public bid or
18 auction for all properties determined to be legal lots of record. [Except
19 as provided in subsection (c) of this section, transfers] If the
20 department does not receive any bids at the initial public bid or
21 auction, it may continue to market the property and accept offers for
22 sale, or hold another bid or auction. Transfers to other state agencies
23 and municipalities for purposes specified by the department shall be
24 exempt from the appraisal requirement. The department shall offer
25 parcels which are legal lots of record to other state agencies prior to a
26 public bid or auction and shall offer parcels which are not legal lots of
27 record to all abutting landowners in accordance with department
28 regulations. If the sale or transfer of property pursuant to this section
29 results in the existing property of an abutting landowner becoming a
30 nonconforming use as to local zoning requirements, the Commissioner
31 of Transportation may sell or transfer the property to such abutting
32 landowner without public bid or auction. The department shall obtain
33 a second appraisal if such property is valued over [one] two hundred
34 fifty thousand dollars and is [not] to be sold [through public bid or
35 auction] to an abutting landowner or in accordance with the provisions
36 of subsection (c) of this section. Any appraisals [or value reports] shall
37 be obtained prior to the determination of a sale price of the excess
38 property.

39 (c) Notwithstanding the provisions of sections 3-14b and 4b-21, no
40 residential property upon which a single-family dwelling is situated at
41 the time it is obtained by the department for highway purposes may be
42 sold or transferred pursuant to this section within twenty-five years of
43 the date of its acquisition without the department's first offering the
44 owner or owners of the property at the time of its acquisition a right of
45 first refusal to purchase the property at the amount of its appraised
46 value as determined in accordance with the provisions of subsection
47 (b) of this section. [, except for property offered for sale to

48 municipalities prior to July 1, 1988.] Notice of such offer shall be sent
49 to each such owner by registered or certified mail, return receipt
50 requested, within one year of the date a determination is made that
51 such property is not necessary for highway purposes. Any such offer
52 shall be terminated by the department if it has not received written
53 notice of the owner's acceptance of the offer within sixty days of the
54 date it was mailed. [Whenever the offer is not so accepted, the
55 department shall offer parcels which meet local zoning requirements
56 for residential or commercial use to other state agencies and shall offer
57 parcels which do not meet local zoning requirements for residential or
58 commercial use to all abutting landowners in accordance with
59 department regulations. If the sale or transfer of the property pursuant
60 to this section results in the existing property of an abutting landowner
61 becoming a nonconforming use as to local zoning requirements, the
62 Commissioner of Transportation may sell or transfer the property to
63 that abutter without public bid or auction.] The commissioner shall
64 adopt regulations, in accordance with the provisions of chapter 54,
65 establishing procedures for the disposition of excess property pursuant
66 to the provisions of this subsection in the event such property is
67 owned by more than one person.

68 (d) Where the department has in good faith and with reasonable
69 diligence attempted to ascertain the identity of persons entitled to
70 notice under subsection (c) of this section and mailed notice to the last
71 known address of record of those ascertained, the failure to in fact
72 notify those persons entitled thereto shall not invalidate any
73 subsequent disposition of property pursuant to this section.

74 Sec. 2. Section 13a-73 of the general statutes is repealed and the
75 following is substituted in lieu thereof (*Effective October 1, 2011*):

76 (a) "Real property", as used in this section, includes land and
77 buildings and any estate, interest or right in land.

78 (b) The [commissioner] Commissioner of Transportation may take
79 any [land] real property he finds necessary for the layout, alteration,

80 extension, widening, change of grade or other improvement of any
81 state highway or bridge, or for a highway maintenance storage area or
82 garage and the owner of such [land] real property shall be paid by the
83 state for all damages, and the state shall receive from such owner the
84 amount or value of all benefits, resulting from such taking, layout,
85 alteration, extension, widening, change of grade or other
86 improvement. The use of any [site] real property acquired for highway
87 maintenance storage area or garage purposes by condemnation shall
88 conform to any zoning ordinance or development plan in effect for the
89 area in which such [site] real property is located, provided the
90 commissioner may be granted any variance or special exception as
91 may be made pursuant to the zoning ordinances and regulations of the
92 town in which any such [site] real property is to be acquired. The
93 assessment of such damages and of such benefits shall be made by the
94 commissioner and filed [by him] with the clerk of the superior court
95 for the judicial district in which the [land] real property affected is
96 located. The commissioner shall give notice of such assessment to each
97 person having an interest of record therein by mailing to each a copy
98 of the same, postage prepaid, and, at any time after such assessment
99 has been made by the commissioner, the physical construction of such
100 layout, alteration, extension, widening, maintenance storage area or
101 garage, change of grade or other improvement may be made. If notice
102 cannot be given to any person entitled thereto because [his] such
103 person's whereabouts or existence is unknown, notice may be given by
104 publishing a notice at least twice in a newspaper published in the
105 judicial district and having a daily or weekly circulation in the town in
106 which the property affected is located. Any such published notice shall
107 state that it is a notice to the last owner of record or [his] such owner's
108 surviving spouse, heirs, administrators, assigns, representatives or
109 creditors if [he] such person is deceased, and shall contain a brief
110 description of the real property taken. Notice shall also be given by
111 mailing to each such person at his last-known address, by registered or
112 certified mail, a copy of such notice. If, after a search of the land and
113 probate records, the address of any interested party cannot be found,

114 an affidavit stating such facts and [reciting] the steps taken to establish
115 the address of any such person shall be filed with the clerk of the court
116 and accepted in lieu of service of such notice by mailing the same to
117 the last known address of such person. Upon filing an assessment with
118 the clerk of the court, the commissioner shall forthwith sign and file for
119 record with the town clerk of the town in which such real property is
120 located a certificate setting forth the fact of such taking, a description
121 of the real property so taken and the names and residences of the
122 owners from whom it was taken. Upon the filing of such certificate,
123 title to such real property in fee simple shall vest in the state of
124 Connecticut, except that, if it is so specified in such certificate, a lesser
125 estate, interest or right shall vest in the state. The commissioner shall
126 permit the last owner of record of such real property upon which a
127 residence is situated to remain in such residence, rent free, for a period
128 of one hundred twenty days after the filing of such certificate.

129 (c) The commissioner may purchase any [land] real property and
130 take a deed thereof in the name of the state when such [land] real
131 property is needed in connection with the layout, construction, repair,
132 reconstruction or maintenance of any state highway or bridge, and any
133 [land or buildings or both] real property, necessary, in the
134 commissioner's opinion, for the efficient accomplishment of the
135 foregoing purpose, and may further, when the commissioner
136 determines that it is in the best interests of the state, purchase, lease or
137 otherwise arrange for the acquisition or exchange of [land or buildings
138 or both] real property for [use as a] highway purposes, including, but
139 not limited to, a highway maintenance storage area or garage,
140 provided any purchase of such [land or land and buildings] real
141 property in an amount in excess of the sum of one hundred thousand
142 dollars shall be approved by a state referee. The commissioner, with
143 the advice and consent of the Attorney General, may settle and
144 compromise any claim by any person, firm or corporation claiming to
145 be aggrieved by such layout, construction, reconstruction, repair or
146 maintenance by the payment of money, the transfer of other [land] real
147 property acquired for or in connection with highway purposes,

148 including, but not limited to, a highway maintenance storage area or
149 garage, or otherwise.

150 (d) The commissioner may purchase or take in the name of the state
151 any [land, buildings, interest in land, easements or other rights he] real
152 property the commissioner finds necessary for the layout, construction,
153 maintenance or use of roads or bridges authorized by section 13a-5,
154 under the provisions of this title relating to the purchase and taking of
155 [land] real property for state highways. Any person aggrieved by any
156 such action of the commissioner shall have the same rights of appeal as
157 provided in this title in relation to the taking of [land] real property by
158 the commissioner. [for highway purposes.]

159 (e) The commissioner may take any [land] real property (1) which is
160 necessary for the construction of any ditch, drain, gutter or other
161 structure which is required for the purpose of draining any state
162 highway; or (2) which is required for the purpose of preserving any
163 historical monument or memorial, the removal of which is made
164 necessary by the construction or reconstruction of a state highway. The
165 commissioner may assess benefits and damages caused by any such
166 construction and for the taking of any such [land] real property under
167 the provisions of subsection (b) of this section and sections 13a-74, 13a-
168 76, 13a-77 and 13a-78 and any person aggrieved by the assessment of
169 any such benefits or damages shall be entitled to the relief provided for
170 in said sections.

171 (f) The commissioner may take or purchase rights of access to and
172 egress from [land] real property abutting any highway or land taken or
173 purchased as right-of-way therefor, or any other highway for the
174 purpose of protecting the functional characteristics of any state
175 highway or state highway appurtenances or safety of the traveling
176 public to and from any state highway or state highway appurtenances
177 when in his judgment such limitation of access is necessary to permit
178 the convenient, safe and expeditious flow of traffic. Such taking or
179 purchase shall be in the same manner [and with like powers as

180 authorized and exercised by said commissioner in taking or
181 purchasing real property for state highway purposes] provided in this
182 title in relation to the taking of real property by said commissioner.

183 (g) When the Commissioner of Transportation finds it necessary
184 that real property, the title to which is in the state of Connecticut and
185 which is under the custody and control of any state department,
186 commission or institution, be taken for the purpose of drainage,
187 construction, alteration, reconstruction, improvement, relocation,
188 widening and change of grade of any highway to be constructed under
189 his supervision, he shall petition the Secretary of the Office of Policy
190 and Management that custody of such real property be transferred to
191 him as Commissioner of Transportation. Such petition shall set forth
192 the necessity for such transfer and control. The Secretary of the Office
193 of Policy and Management shall present such petition to the
194 department, commission or institution having custody and control of
195 such real property, and, upon the recommendation of, and subject to
196 such consideration as may be required by, such department,
197 commission or institution and with the approval of the Secretary of the
198 Office of Policy and Management, such department, commission or
199 institution shall transfer the custody and control of such real property
200 to the Commissioner of Transportation for the purposes required.

201 (h) All sales or exchanges of surplus real property by the
202 Department of Transportation and matters dealing with the initial
203 acquisition of any existing mass transit system or the purchase or sale
204 of properties acquired in connection with any state highway system or
205 mass transit system shall be subject to review and approval of the State
206 Properties Review Board except that those acquisitions and
207 administrative settlements relating to such properties which involve
208 sums not in excess of five thousand dollars shall be reported to the
209 board by the Commissioner of Transportation but shall not be subject
210 to such review and approval. The Commissioner of Public Works shall
211 be informed for inventory purposes of any transfer effectuated in
212 connection with this section. The State Properties Review Board shall

213 not grant such approval if the Department of Transportation has failed
214 to comply with any applicable statutes in connection with the
215 proposed action.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	13a-80
Sec. 2	<i>October 1, 2011</i>	13a-73

Statement of Purpose:

To make the transfer of excess state property less difficult and costly, and to provide consistency in the use of certain language and terms concerning condemnation and disposal of excess real property.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]