

# STATE OF NEW YORK

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1212

2021-2022 Regular Sessions

## IN SENATE

January 8, 2021

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Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the public lands law, in relation to establishing a right of first refusal in municipalities for state land to be sold at public auction

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 33 of the public lands law, as amended by chapter  
2 360 of the laws of 1983, subdivision 2 as amended by chapter 119 of the  
3 laws of 2000, paragraph (b) of subdivision 2 as amended by chapter 187  
4 of the laws of 2007, subdivision 3 as separately amended by chapters 360  
5 and 471 of the laws of 1983 and subdivision 5 as added by chapter 95 of  
6 the laws of 2000, is amended to read as follows:

7 § 33. Sale of unappropriated state lands; right of first refusal;  
8 notice and place of public sales. 1. ~~[The]~~ (a) Prior to the public sale  
9 of unappropriated state land, the office of general services must first  
10 offer to sell such land to the local governments in which it is located  
11 subject to the following conditions:

12 (i) if the local government intends to use such land in perpetuity for  
13 park and/or municipal recreation purposes, the commissioner of general  
14 services shall offer the land to the local government for the sum of one  
15 dollar;

16 (ii) if the local government intends to use such land for other munic-  
17 ipal purposes, the commissioner of general services shall offer the land  
18 to the local government for a sum equal to the current appraised value  
19 determined by such commissioner or for no more than the same consider-  
20 ation for which it is proposed to be sold to a person or private entity,  
21 whichever is less;

22 (iii) the deed conveying unappropriated state land to a local govern-  
23 ment pursuant to subparagraph (i) or (ii) of this paragraph shall

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 include a clause specifying the purpose for which the land is being  
2 conveyed and reverting the land to the state if it is not utilized for  
3 the specific purpose enumerated or the specifically enumerated use ceas-  
4 es;

5 (iv) the governing body of such municipality shall exercise its right  
6 to purchase unappropriated state land for a purpose set forth in subpar-  
7 agraph (i) or (ii) of this paragraph within ninety days after receipt of  
8 such written offer from the office of general services or within any  
9 greater length of time that may be provided for in a written agreement  
10 between the office of general services and such local government;

11 (v) the offer to purchase any such unappropriated state land made to  
12 any municipality in which such real property is situated shall not  
13 constitute a right to purchase and such offer may be withdrawn by the  
14 commissioner of general services at any time.

15 (b) If the unappropriated state land is located within an incorporated  
16 village, the commissioner of general services shall first offer such  
17 land to the incorporated village. The governing body of such village  
18 shall exercise its right to purchase such land for a purpose set forth  
19 in subparagraph (i) or (ii) of paragraph (a) of this subdivision within  
20 ninety days after receipt of such written offer from the office of  
21 general services or within any greater length of time that may be  
22 provided for in a written agreement between the office of general  
23 services and such village. If the incorporated village does not exercise  
24 its right to purchase such land within said time frame, then the commis-  
25 sioner of general services shall offer the unappropriated land for sale  
26 to the town in which such land is located.

27 (c) If the unappropriated state land is located within a town but  
28 outside of the borders of any incorporated village or is located in a  
29 village but the village does not exercise its right as set forth in  
30 paragraph (b) of this subdivision, the commissioner of general services  
31 shall offer such land to the town. The governing body of such town shall  
32 exercise its right to purchase such land for a purpose set forth in  
33 subparagraph (i) or (ii) of paragraph (a) of this subdivision within  
34 ninety days after receipt of such written offer from the office of  
35 general services or within any greater length of time that may be  
36 provided for in a written agreement between the office of general  
37 services and such town. If the town does not exercise its right to  
38 purchase such land within said time frame, then the commissioner of  
39 general services shall offer the unappropriated land for sale to the  
40 county in which such land is located.

41 (d) If the unappropriated state land is located within a city, the  
42 commissioner of general services shall first offer such land to the  
43 city. The governing body of such city shall exercise its right to  
44 purchase such land for a purpose set forth in subparagraph (i) or (ii)  
45 of paragraph (a) of this subdivision within ninety days after receipt of  
46 such written offer from the office of general services or within any  
47 greater length of time that may be provided for in a written agreement  
48 between the office of general services and such city. If the city does  
49 not exercise its right to purchase the unappropriated state land within  
50 said time frame, then such commissioner shall offer the unappropriated  
51 land for sale to the county in which such land is located.

52 (e) The governing body of such county shall exercise its right to  
53 purchase unappropriated state land for a purpose set forth in subpara-  
54 graph (i) or (ii) of paragraph (a) of this subdivision within ninety  
55 days after receipt of such written offer from the office of general  
56 services or within any greater length of time that may be provided for

1 in a written agreement between the office of general services and the  
2 county. If the county does not exercise its right to purchase the unap-  
3 propriated state land within said time frame, then the commissioner of  
4 general services may dispose of said land in accordance with all appli-  
5 cable laws.

6 (f) The procedure set forth in this subdivision shall supplement any  
7 other procedures in effect with regard to the sale of unappropriated  
8 state land.

9 2. Subject to the provisions of subdivision one of this section, the  
10 commissioner of general services may, from time to time, sell unappro-  
11 priated state lands at public auction or by sealed bids in such parcels  
12 as he deems for the best interests of the state. Previous to every sale,  
13 he or she shall fix the lowest sum at which each lot may be sold, and  
14 shall designate at least one newspaper in the county where the lands to  
15 be sold are situated, in which the commissioner shall cause notice of  
16 the time, place and description of sale to be published, at least once a  
17 week for four weeks, successively, before the sale. Such notice need not  
18 be published in any other paper or papers, and any statute requiring  
19 additional publication of notices or advertisements by state officers or  
20 a department, board, bureau or commission of the state shall not apply  
21 to such notice. The commissioner may designate a representative of his  
22 or her office to conduct such sale. All such sales shall be held at the  
23 county seat of the county where the property is situated, unless other-  
24 wise directed by the commissioner.

25 Upon such sales of unappropriated state land to a purchaser procured  
26 by any licensed real estate broker and the payment of the purchase price  
27 in the amount offered by such broker in behalf of the purchaser, the  
28 commissioner of general services is authorized to pay, subject to such  
29 terms and conditions as the commissioner may prescribe, a commission to  
30 such broker out of monies available therefor. Uniform rates of commis-  
31 sion shall, from time to time, be fixed by the commissioner but shall  
32 not exceed six percentum of the purchase price. No commission shall be  
33 paid for the procuring of any sale unless (1) written authority of the  
34 broker to make such offer on a form acceptable to the commissioner,  
35 signed by the person for whom he or she is acting, shall be filed with  
36 the commissioner before the day of the sale and unless (2) the broker  
37 shall furnish to the commissioner evidence in such form and extent as he  
38 may require establishing that the purchaser was procured as the result  
39 of the broker's services. In no event shall a broker who is paid a  
40 commission by the commissioner as herein provided accept any other  
41 commission or fee from any person or source for brokerage services  
42 relating to the sale of such unappropriated state land.

43 ~~[2-]~~ 3. (a) Whenever a street or highway, including any adjacent land  
44 acquired or held by the state in connection with such street or highway,  
45 the title to the bed of which is in the state, shall have been legally  
46 abandoned or closed, in whole or in part, the commissioner of general  
47 services may sell and convey at public auction or by sealed bids at not  
48 less than the appraised value, in such parcels as he or she directs, all  
49 the right, title and interest of the state in such abandoned or closed  
50 street or highway, or the part so abandoned or closed, and in any adja-  
51 cent land acquired or held by the state in connection with such street  
52 or highway; and where, in the judgment of such commissioner, a public  
53 auction is not for the best interests of the state the commissioner, in  
54 his or her discretion, may sell and convey such parcels of said lands at  
55 private sale to the owners of adjacent lands for a price not less than

1 the appraised value and on such terms and conditions as the commissioner  
2 may impose.

3 (b) The commissioner of general services may sell and convey parcels  
4 of unappropriated state land which (i) do not constitute legal building  
5 lots in the municipality in which they are located and (ii) have an  
6 appraised value of less than twenty thousand dollars each at private  
7 sale to any owner of adjacent lands. Consideration for such sales shall  
8 be for a price not less than the appraised value and such additional  
9 terms and conditions as the commissioner may deem necessary.

10 ~~[3-]~~ 4. The commissioner of general services is authorized in his or  
11 her discretion to sell and convey at private sale upon such terms and  
12 conditions as he or she may deem proper, and to remise and quitclaim all  
13 the right, title and interest of the state in and to any unappropriated  
14 state lands acquired by or through tax sale where it shall appear that  
15 such lands are and have been privately occupied under color of title  
16 continuously for ten years or where the applicant has, in good faith, a  
17 continuous chain of title going back more than ten years from the date  
18 of application. Any such sale, if made, shall be to the person or  
19 persons claiming title because of such occupation or under such chain of  
20 title, and shall be for a consideration not less than the fair market  
21 value of the state's interest as determined by the commissioner.

22 ~~[4-]~~ 5. Where a petition is presented to a surrogate's court of this  
23 state for an order directing the sale of a decedent's real property for  
24 any of the purposes provided for in section one thousand nine hundred  
25 two of the surrogate's court procedure act or otherwise, and there is  
26 reason to believe that such real property may have escheated to the  
27 people of the state of New York, and a final judgment in an action by  
28 reason of such escheat, as provided for in section two hundred ~~[and]~~ one  
29 of the abandoned property law, has not been entered, the commissioner of  
30 general services may, if it is deemed to be in the best interests of the  
31 state, authorize the attorney general to consent to such order for the  
32 sale of such real property, either at public auction or by sealed bids  
33 or private sale. A deed thereupon executed and delivered pursuant to the  
34 terms and provisions of such order, upon such consent of the attorney  
35 general, shall be deemed a bar to any claim of title of the people of  
36 the state of New York, by virtue of such escheat, in the property so  
37 sold, but shall not be deemed to affect any rights that the people of  
38 the state of New York may have in or to the proceeds of such sale.  
39 Consent, however, to such an order shall not be given in the event the  
40 price offered on a proposed private sale of such real property is less  
41 than the appraised value thereof as determined by the commissioner of  
42 general services.

43 ~~[5-]~~ 6. (a) The commissioner of general services may sell and convey  
44 improved, unappropriated state lands by competitive solicitation of  
45 offers through a request for proposals or similar method where in his or  
46 her judgment, a public auction is not in the best interests of the  
47 state. Such solicitation shall document the minimum qualitative and  
48 quantitative factors in addition to sale price to be used as criteria in  
49 the evaluation of offers and the general manner in which the evaluation  
50 process and selection of the most responsive and responsible offeror is  
51 to be conducted. Clarifications may be sought from offerors for purposes  
52 of assuring a full understanding of responsiveness to the solicitation  
53 requirements. Where provided for in the solicitation, revisions may be  
54 permitted from all offerors determined to be eligible for award.  
55 Disclosure of the content of competing offers, other than statistical  
56 tabulations of offers received or of any clarifications or revisions

1 thereto, shall be prohibited prior to award. All offers or separable  
2 parts thereof may be rejected.

3 (b) Establishment of the minimum sale price for the competitive solici-  
4 tation shall be based upon a certified appraisal or certified appraisal  
5 report as defined in article six-E of the executive law.

6 (c) The commissioner of general services shall designate at least one  
7 newspaper in the county where the lands to be offered are situate, in  
8 which he or she shall cause a notice of the solicitation to be published  
9 at least once a week for four weeks successively before the date set  
10 forth for receipt of offers.

11 § 2. This act shall take effect immediately.