STATE OF NEW YORK

4610

2021-2022 Regular Sessions

IN SENATE

February 8, 2021

Introduced by Sen. COMRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law, in relation to disposals and contracts for disposal of property

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

Section 1. Subparagraphs (v) and (vi) of paragraph c of subdivision 6 of section 2897 of the public authorities law, as amended by chapter 506 of the laws of 2009, are amended to read as follows:

(v) [~~under those circumstances~~] **the disposal will be for less than fair market value as** permitted by subdivision seven of this section; or

(vi) [~~such action is otherwise authorized by law~~] **the disposal is expressly exempted from provisions of paragraphs a and b of this subdivision**.

§ 2. Subdivision 6 of section 2897 of the public authorities law is amended by adding a new paragraph g to read as follows:

g. Any disposals and contracts for disposal of property that contain a right of first refusal must ensure that the property is transferred at or above fair market value at the time when such right is exercised.

§ 3. Subdivision 7 of section 2897 of the public authorities law, as added by chapter 506 of the laws of 2009, is amended to read as follows:

7. Disposal of property for less than fair market value. a. No asset owned, leased or otherwise in the control of a public authority may be sold, leased, or otherwise alienated for less than its fair market value except if:

(i) the transferee is a government or other public entity, and the terms and conditions of the transfer require that the ownership and use of the asset will remain with the government or any other public entity; **or**

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

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(ii) it is in the public interest to do so and the [~~purpose of the transfer is within the purpose, mission or governing statute of the public authority; or~~

~~(iii) in~~] disposal is made in compliance with paragraph b of this subdivision.

b. In the event a public authority seeks to transfer an asset for less than its fair market value to other than a governmental entity, [~~which disposal would not be consistent with the authority's mission, purpose or governing statutes,~~] such authority shall provide written notification thereof to the governor, the speaker of the assembly, and the temporary president of the senate, and such proposed transfer shall be subject to denial by the governor, the senate, or the assembly. Denial by the governor shall take the form of a signed certification by the governor. Denial by either house of the legislature shall take the form of a resolution by such house. The governor and each house of the legislature shall take any such action within sixty days of receiving notification of such proposed transfer during the months of January through June, provided that if the legislature receives notification of a proposed transfer during the months of July through December, the legislature may take any such action within sixty days of January first of the following year. If no such resolution or certification is performed within sixty days of such notification of the proposed transfer to the governor, senate, and assembly, the public authority may effectuate such transfer. Provided, however, that with respect to a below market transfer by a local authority [~~that is not within the purpose, mission or governing statute of the local authority~~], if the governing statute provides for the approval of such transfer by the executive and legislative branches of the political subdivision in which such local authority resides, and the transfer is of property obtained by the authority from that political subdivision, then such approval shall be sufficient to permit the transfer.

[~~b.~~] c. In the event a below fair market value asset transfer is proposed, the following information must be provided to the authority board and the public:

(i) a full description of the asset;

(ii) [~~an~~] a current appraisal of the fair market value of the asset and any other information establishing the fair market value sought by the board;

(iii) a description of the purpose of the transfer, and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, including but not limited to the kind, number, location, wages or salaries of jobs created or preserved as required by the transfer, the benefits, if any, to the communities in which the asset is situated as are required by the transfer;

(iv) a statement of the value to be received compared to the fair market value;

(v) the names and ownership information of any private parties participating in the transfer, and if different than the statement required by subparagraph (iv) of this paragraph, a statement of the value to [~~the~~] each private party; and

(vi) the names of other private parties who have made an offer for such asset, the value offered, and the purpose for which the asset was sought to be used.

[~~c.~~] d. Before approving the disposal of any property for less than fair market value, the board of an authority shall consider the information described in paragraph [~~b~~] c of this subdivision and make a written

determination that there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose of such transfer.

§ 4. This act shall take effect immediately and shall apply to disposals and contracts for disposal of property occurring or entered into on or after such date.