

STATE OF NEW YORK

1936

2023-2024 Regular Sessions

IN SENATE

January 17, 2023

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:

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

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

6 (vi) [~~such action is otherwise authorized by law~~] the disposal is
7 expressly exempted from provisions of paragraphs a and b of this subdi-
8 vision.

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

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

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

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

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

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

LBD03879-01-3

1 (ii) it is in the public interest to do so and the [~~purpose of the~~
2 ~~transfer is within the purpose, mission or governing statute of the~~
3 ~~public authority, or~~
4 ~~(iii) in~~] disposal is made in compliance with paragraph b of this
5 subdivision.

6 b. In the event a public authority seeks to transfer an asset for less
7 than its fair market value to other than a governmental entity, [~~which~~
8 ~~disposal would not be consistent with the authority's mission, purpose~~
9 ~~or governing statutes,~~] such authority shall provide written notifica-
10 tion thereof to the governor, the speaker of the assembly, and the
11 temporary president of the senate, and such proposed transfer shall be
12 subject to denial by the governor, the senate, or the assembly. Denial
13 by the governor shall take the form of a signed certification by the
14 governor. Denial by either house of the legislature shall take the form
15 of a resolution by such house. The governor and each house of the legis-
16 lature shall take any such action within sixty days of receiving notifi-
17 cation of such proposed transfer during the months of January through
18 June, provided that if the legislature receives notification of a
19 proposed transfer during the months of July through December, the legis-
20 lature may take any such action within sixty days of January first of
21 the following year. If no such resolution or certification is performed
22 within sixty days of such notification of the proposed transfer to the
23 governor, senate, and assembly, the public authority may effectuate such
24 transfer. Provided, however, that with respect to a below market trans-
25 fer by a local authority [~~that is not within the purpose, mission or~~
26 ~~governing statute of the local authority~~], if the governing statute
27 provides for the approval of such transfer by the executive and legisla-
28 tive branches of the political subdivision in which such local authority
29 resides, and the transfer is of property obtained by the authority from
30 that political subdivision, then such approval shall be sufficient to
31 permit the transfer.

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

- 35 (i) a full description of the asset;
36 (ii) [~~an~~] a current appraisal of the fair market value of the asset
37 and any other information establishing the fair market value sought by
38 the board;
39 (iii) a description of the purpose of the transfer, and a reasonable
40 statement of the kind and amount of the benefit to the public resulting
41 from the transfer, including but not limited to the kind, number,
42 location, wages or salaries of jobs created or preserved as required by
43 the transfer, the benefits, if any, to the communities in which the
44 asset is situated as are required by the transfer;
45 (iv) a statement of the value to be received compared to the fair
46 market value;
47 (v) the names and ownership information of any private parties partic-
48 ipating in the transfer, and if different than the statement required by
49 subparagraph (iv) of this paragraph, a statement of the value to [~~the~~]
50 each private party; and
51 (vi) the names of other private parties who have made an offer for
52 such asset, the value offered, and the purpose for which the asset was
53 sought to be used.

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

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

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