

**SUBSTITUTE FOR
HOUSE BILL NO. 5281**

A bill to amend 1984 PA 431, entitled
"The management and budget act,"
by amending section 251 (MCL 18.1251), as amended by 1999 PA 8, and
by adding section 257.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 251. (1) This section applies to all real property of ~~the~~
2 **THIS** state except all of the following:
- 3 (a) Property under the jurisdiction of the state
4 transportation department.
- 5 (b) Property under the jurisdiction of ~~a state~~~~AN~~ institution
6 of higher education.
- 7 (c) Property under the jurisdiction of the department of
8 natural resources.
- 9 (d) Property under the jurisdiction of the department of

1 military **AND VETERANS** affairs.

2 (2) The department shall provide for the development and
3 maintenance of real property records and facility inventories. The
4 department may award appropriate service contracts or employ land
5 surveyors to survey, monument, map, describe, and record real
6 property and facilities.

7 ~~(3) The department shall issue directives to provide for the~~
8 ~~disposition process for facilities and lands that are considered~~
9 ~~surplus. The department shall require a public notice component in~~
10 ~~its directives regarding the disposition process under this~~
11 ~~subsection.~~ **AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT**
12 **ADDED SECTION 257, IF A STATUTE OF THIS STATE REQUIRES THE**
13 **DISPOSITION OF REAL PROPERTY TO BE IN ACCORDANCE WITH DIRECTIVES**
14 **DEVELOPED FOR THE DISPOSITION OF SURPLUS FACILITIES AND LANDS UNDER**
15 **THIS SECTION, THE DISPOSITION IS CONTROLLED BY SECTION 257.**

16 **SEC. 257. (1) THE DEPARTMENT, ON BEHALF OF THIS STATE, MAY**
17 **CONVEY BY QUITCLAIM DEED OR AFFIDAVIT OF JURISDICTIONAL TRANSFER**
18 **ALL OR PORTIONS OF STATE-OWNED PROPERTY DESIGNATED AS SURPLUS REAL**
19 **PROPERTY BY THE STATE AGENCY WITH JURISDICTION OVER THE PROPERTY IF**
20 **BOTH OF THE FOLLOWING APPLY:**

21 **(A) THE PROPERTY IS DESIGNATED AS SURPLUS REAL PROPERTY BY THE**
22 **DIRECTOR OF THE STATE AGENCY WITH JURISDICTION OVER THE PROPERTY IN**
23 **WRITING TO THE DIRECTOR.**

24 **(B) THE PROPERTY IS NOT NEEDED TO MEET A STATE OBJECTIVE AS**
25 **DETERMINED BY THE DIRECTOR.**

26 **(2) THE DEPARTMENT SHALL NOT CONVEY PROPERTY UNDER THIS**
27 **SECTION UNLESS THE CONVEYANCE AND THE TERMS OF THE CONVEYANCE HAVE**

1 BEEN APPROVED BY THE BOARD.

2 (3) THE STATE AGENCY WITH JURISDICTION OVER SURPLUS REAL
3 PROPERTY CONVEYED OR TRANSFERRED UNDER THIS SECTION IS RESPONSIBLE
4 FOR ALL EXPENSES OF MAINTAINING THE PROPERTY UNTIL THE TIME OF
5 CONVEYANCE OR TRANSFER.

6 (4) SURPLUS REAL PROPERTY CONVEYED UNDER THIS SECTION MUST BE
7 IDENTIFIED BY A LEGAL DESCRIPTION APPROVED OR PREPARED BY THE STATE
8 SURVEYOR FOR USE IN A STATE QUITCLAIM DEED.

9 (5) A DEED OR AFFIDAVIT OF JURISDICTIONAL TRANSFER AUTHORIZED
10 BY THIS SECTION MUST BE APPROVED AS TO LEGAL FORM BY THE DEPARTMENT
11 OF ATTORNEY GENERAL.

12 (6) SURPLUS REAL PROPERTY CONVEYED OR TRANSFERRED UNDER THIS
13 SECTION INCLUDES ALL SURPLUS, SALVAGE, AND PERSONAL PROPERTY OR
14 EQUIPMENT REMAINING ON THE PROPERTY ON THE DATE OF THE CONVEYANCE.

15 (7) IF SURPLUS REAL PROPERTY IS TO BE SOLD FOR FAIR MARKET
16 VALUE UNDER THIS SECTION, THE FAIR MARKET VALUE MUST BE DETERMINED
17 BY AN INDEPENDENT FEE APPRAISAL PREPARED FOR THE DEPARTMENT, OR BY
18 AN APPRAISER WHO IS AN EMPLOYEE OR CONTRACTOR OF THIS STATE.

19 (8) THE DEPARTMENT MAY TAKE THE NECESSARY STEPS TO CONVEY
20 SURPLUS REAL PROPERTY UNDER THIS SECTION USING ANY OF THE FOLLOWING
21 MEANS:

22 (A) ANY PUBLICLY DISCLOSED COMPETITIVE METHOD OF SALE,
23 SELECTED TO REALIZE THE FAIR MARKET VALUE TO THIS STATE, AS
24 DETERMINED BY THE DEPARTMENT.

25 (B) OFFERING THE PROPERTY FOR SALE FOR FAIR MARKET VALUE TO 1
26 OR MORE UNITS OF LOCAL GOVERNMENT.

27 (C) TRANSFERRING THE PROPERTY, WITH OR WITHOUT CONSIDERATION,

1 THROUGH JURISDICTIONAL TRANSFER TO ANOTHER STATE AGENCY. HOWEVER,
2 THE DEPARTMENT SHALL NOT TRANSFER PROPERTY UNDER THIS SECTION
3 THROUGH JURISDICTIONAL TRANSFER TO THE LAND BANK FAST TRACK
4 AUTHORITY CREATED UNDER SECTION 15 OF THE LAND BANK FAST TRACK ACT,
5 2003 PA 258, MCL 124.765. IF PROPERTY IS TRANSFERRED UNDER THIS
6 SUBDIVISION, THE TRANSFER MUST BE MADE BY AN AFFIDAVIT OF
7 JURISDICTIONAL TRANSFER IN RECORDABLE FORM RATHER THAN A QUITCLAIM
8 DEED.

9 (D) EXCHANGING SOME OR ALL OF THE PROPERTY FOR OTHER REAL
10 PROPERTY IF THE OTHER REAL PROPERTY IS DETERMINED BY THE DEPARTMENT
11 TO BE OF REASONABLY EQUAL VALUE TO THIS STATE.

12 (E) OFFERING THE PROPERTY FOR SALE FOR LESS THAN FAIR MARKET
13 VALUE TO THE UNITS OF LOCAL GOVERNMENT IN WHICH THE PROPERTY IS
14 LOCATED, SUBJECT TO THE FOLLOWING CONDITIONS:

15 (i) THE DEPARTMENT MAY PROVIDE NOTICE TO EACH OF THE UNITS OF
16 LOCAL GOVERNMENT OF THE PROPERTY'S AVAILABILITY. THE DEPARTMENT
17 SHALL GIVE THE FIRST OPPORTUNITY TO PURCHASE THE PROPERTY TO THE
18 FIRST UNIT OF LOCAL GOVERNMENT TO MAKE AN OFFER BY REGISTERED MAIL
19 TO PURCHASE THE PROPERTY. IF THERE ARE COMPETING OFFERS FROM UNITS
20 OF LOCAL GOVERNMENT SUBMITTED ON THE SAME DAY, THE DEPARTMENT SHALL
21 DETERMINE WHICH UNIT SHOULD RECEIVE THE PROPERTY BASED ON THE BEST
22 INTERESTS OF THIS STATE. IF AN OFFER IS ACCEPTED BY THE DEPARTMENT,
23 THE UNIT OF LOCAL GOVERNMENT SHALL ENTER INTO A PURCHASE AGREEMENT
24 WITHIN 60 DAYS AFTER MAKING THE OFFER AND COMPLETE THE CONVEYANCE
25 WITHIN 180 DAYS AFTER MAKING THE OFFER. THE DEPARTMENT MAY EXTEND
26 THE TIME TO COMPLETE THE CONVEYANCE AS NEEDED.

27 (ii) THE PROPERTY MUST BE USED EXCLUSIVELY FOR PUBLIC USE FOR

1 30 YEARS AFTER THE CONVEYANCE. IF A FEE, TERM, OR CONDITION IS
2 IMPOSED ON MEMBERS OF THE PUBLIC FOR USE OF THE PROPERTY, OR IF
3 SUCH A FEE, TERM, OR CONDITION IS WAIVED, ALL MEMBERS OF THE PUBLIC
4 MUST BE SUBJECT TO THE SAME FEES, TERMS, CONDITIONS, AND WAIVERS.
5 THE PUBLIC USE RESTRICTION MUST BE INCLUDED IN THE DEED.

6 (iii) IF THE UNIT OF LOCAL GOVERNMENT INTENDS TO CONVEY THE
7 PROPERTY WITHIN 30 YEARS AFTER THE CONVEYANCE, THE UNIT OF LOCAL
8 GOVERNMENT MUST FIRST OFFER THE PROPERTY FOR SALE, IN WRITING, TO
9 THIS STATE, WHICH MAY PURCHASE THE PROPERTY AT THE ORIGINAL SALE
10 PRICE. THE UNIT OF LOCAL GOVERNMENT SHALL PROVIDE THIS STATE 120
11 DAYS TO CONSIDER REACQUIRING THE PROPERTY. IF THIS STATE AGREES TO
12 REACQUIRE THE PROPERTY, THIS STATE IS NOT LIABLE TO ANY PERSON FOR
13 IMPROVEMENTS TO OR LIENS PLACED ON THE PROPERTY. IF THIS STATE
14 DECLINES TO REACQUIRE THE PROPERTY, THE PUBLIC USE RESTRICTIONS
15 DESCRIBED IN SUBPARAGRAPH (ii) REMAIN IN EFFECT.

16 (iv) IF THE UNIT OF LOCAL GOVERNMENT RETAINS THE PROPERTY FOR
17 30 YEARS AFTER THE CONVEYANCE, THE PUBLIC USE RESTRICTIONS UNDER
18 SUBPARAGRAPHS (ii) AND (iii) AUTOMATICALLY TERMINATE.

19 (v) THE DEPARTMENT MAY REQUIRE THE UNIT OF LOCAL GOVERNMENT TO
20 REIMBURSE THIS STATE AT CLOSING FOR COSTS DEMONSTRABLY INCURRED BY
21 THIS STATE THAT WERE NECESSARY TO PREPARE THE PROPERTY FOR
22 CONVEYANCE.

23 (9) THE DEPARTMENT MAY REQUIRE A GRANTEE OF PROPERTY CONVEYED
24 UNDER THIS SECTION TO RECORD THE INSTRUMENT OF CONVEYANCE OR
25 JURISDICTIONAL TRANSFER WITH THE APPROPRIATE REGISTER OF DEEDS AND
26 PROVIDE THE DEPARTMENT WITH A RECORDED COPY OF THE RECORDED
27 INSTRUMENT.

1 (10) THE DEPARTMENT SHALL DEPOSIT THE NET REVENUE RECEIVED
2 FROM THE SALE OF PROPERTY UNDER THIS SECTION IN THE STATE TREASURY.
3 THE STATE TREASURER SHALL CREDIT THE MONEY DEPOSITED TO THE GENERAL
4 FUND.

5 (11) THIS SECTION APPLIES TO THE CONVEYANCE OF ALL REAL
6 PROPERTY OF THIS STATE EXCEPT PROPERTY UNDER THE JURISDICTION OF
7 ANY OF THE FOLLOWING:

8 (A) THE STATE TRANSPORTATION DEPARTMENT.

9 (B) AN INSTITUTION OF HIGHER EDUCATION.

10 (C) THE DEPARTMENT OF NATURAL RESOURCES.

11 (D) THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS.

12 (E) THE LAND BANK FAST TRACK AUTHORITY CREATED UNDER SECTION
13 15 OF THE LAND BANK FAST TRACK ACT, 2003 PA 258, MCL 124.765.

14 (12) THIS SECTION APPLIES TO ALL JURISDICTIONAL TRANSFERS
15 BETWEEN STATE DEPARTMENTS AND INSTITUTIONS, INCLUDING THOSE
16 EXEMPTED UNDER SUBSECTION (11). HOWEVER, THIS SECTION DOES NOT
17 APPLY TO A JURISDICTIONAL TRANSFER OF PROPERTY EXEMPTED UNDER
18 SUBSECTION (11) (E).

19 (13) THIS STATE SHALL NOT RESERVE OIL, GAS, OR MINERAL RIGHTS
20 TO PROPERTY CONVEYED UNDER THIS SECTION. HOWEVER, THE CONVEYANCE
21 AUTHORIZED UNDER THIS SECTION MUST PROVIDE THAT, IF THE GRANTEE OR
22 ANY SUCCESSOR DEVELOPS ANY OIL, GAS, OR MINERALS FOUND ON, WITHIN,
23 OR UNDER THE CONVEYED PROPERTY, THE GRANTEE OR ANY SUCCESSOR SHALL
24 PAY THIS STATE 1/2 OF THE GROSS REVENUE GENERATED FROM THE
25 DEVELOPMENT OF THE OIL, GAS, OR MINERALS. A PAYMENT UNDER THIS
26 SECTION MUST BE DEPOSITED IN THE GENERAL FUND.

27 (14) A CONVEYANCE UNDER THIS SECTION MUST RESERVE TO THIS

1 STATE ALL ABORIGINAL ANTIQUITIES, INCLUDING MOUNDS, EARTHWORKS,
2 FORTS, BURIAL AND VILLAGE SITES, MINES, OR OTHER RELICS LYING ON,
3 WITHIN, OR UNDER THE PROPERTY, WITH POWER TO THIS STATE AND ALL
4 OTHERS ACTING UNDER ITS AUTHORITY TO ENTER THE PROPERTY FOR ANY
5 PURPOSE RELATED TO EXPLORING, EXCAVATING, AND TAKING AWAY THE
6 ABORIGINAL ANTIQUITIES.

7 (15) IF PROPERTY CONVEYED UNDER THIS SECTION WAS USED BY THIS
8 STATE AS A HISTORICAL MONUMENT, MEMORIAL, PARK, OR PROTECTED
9 WILDLIFE HABITAT AREA, THE GRANTEE OR ANY SUCCESSOR SHALL MAINTAIN
10 AND PROTECT THE PROPERTY FOR THAT PURPOSE IN PERPETUITY IN
11 ACCORDANCE WITH APPLICABLE LAW.

12 (16) IF PROPERTY CONVEYED UNDER THIS SECTION IS USED IN A
13 MANNER THAT VIOLATES ANY OF THE RESTRICTIONS IMPOSED UNDER
14 SUBSECTION (8) (E), (13), (14), OR (15), THIS STATE MAY REENTER AND
15 TAKE THE PROPERTY, TERMINATING THE GRANTEE'S OR ANY SUCCESSOR'S
16 ESTATE IN THE PROPERTY. AN ACTION TO REGAIN POSSESSION OF THE
17 PROPERTY UNDER THIS SECTION MAY BE BROUGHT AND MAINTAINED BY THE
18 ATTORNEY GENERAL ON BEHALF OF THIS STATE.

19 (17) IF THIS STATE REENTERS AND REPOSSESSES PROPERTY UNDER
20 SUBSECTION (16), THIS STATE IS NOT LIABLE TO REIMBURSE ANY PERSON
21 FOR ANY IMPROVEMENTS MADE ON THE PROPERTY OR TO COMPENSATE ANY
22 PERSON FOR ANY PART OF AN UNFULFILLED CONTRACT OR LICENSE ISSUED TO
23 PROVIDE GOODS OR SERVICES ON OR FOR THE PROPERTY.

24 (18) THIRTY DAYS BEFORE A CONVEYANCE UNDER THIS SECTION, THE
25 DEPARTMENT SHALL NOTIFY THE HOUSE OF REPRESENTATIVES AND SENATE
26 APPROPRIATIONS COMMITTEES AND THE HOUSE OF REPRESENTATIVES AND
27 SENATE MEMBERS IN WHOSE DISTRICTS THE PROPERTY IS LOCATED.

1 (19) BY JULY 1 OF EACH YEAR, THE DEPARTMENT SHALL PROVIDE A
2 REPORT TO THE HOUSE OF REPRESENTATIVES AND SENATE APPROPRIATIONS
3 COMMITTEES THAT CONTAINS ALL OF THE FOLLOWING INFORMATION:

4 (A) THE NUMBER AND FULL DESCRIPTION OF AND THE STATE
5 DEPARTMENT OR AGENCY WITH JURISDICTION OVER EACH PARCEL OF REAL
6 PROPERTY DECLARED AS SURPLUS PROPERTY IN THE PREVIOUS 12 MONTHS.

7 (B) THE NUMBER AND DESCRIPTIONS OF PROPERTIES SOLD UNDER THIS
8 SECTION COMPETITIVELY AND AT FAIR MARKET VALUE.

9 (C) THE NUMBER AND DESCRIPTIONS OF PROPERTIES SOLD UNDER THIS
10 SECTION AT FAIR MARKET VALUE TO UNITS OF LOCAL GOVERNMENT.

11 (D) THE NUMBER AND DESCRIPTIONS OF PROPERTIES TRANSFERRED
12 THROUGH JURISDICTIONAL TRANSFER TO ANOTHER STATE AGENCY UNDER THIS
13 SECTION.

14 (E) THE NUMBER AND DESCRIPTIONS OF PROPERTIES TRADED FOR OTHER
15 REAL PROPERTY UNDER THIS SECTION.

16 (F) THE NUMBER AND DESCRIPTIONS OF PROPERTIES OFFERED TO UNITS
17 OF LOCAL GOVERNMENT FOR LESS THAN FAIR MARKET VALUE UNDER THIS
18 SECTION.

19 (G) THE NUMBER AND DESCRIPTIONS OF PROPERTIES SOLD TO UNITS OF
20 LOCAL GOVERNMENT FOR LESS THAN FAIR MARKET VALUE UNDER THIS
21 SECTION.

22 (H) THE APPRAISAL PRICE OF EACH PARCEL OF PROPERTY CONVEYED,
23 TRANSFERRED, OR OFFERED FOR SALE UNDER THIS SECTION.

24 (I) THE PURCHASE PRICE OF EACH PARCEL OF PROPERTY CONVEYED
25 UNDER THIS SECTION.

26 (J) THE INTENDED USE OF EACH PARCEL OF PROPERTY CONVEYED OR
27 TRANSFERRED UNDER THIS SECTION, IF KNOWN.

(20) AS USED IN THIS SECTION:

(A) "FAIR MARKET VALUE" MEANS THE HIGHEST ESTIMATED PRICE THAT THE PROPERTY WILL BRING IF OFFERED FOR SALE ON THE OPEN MARKET, ALLOWING A REASONABLE TIME TO FIND A PURCHASER WHO WOULD BUY WITH KNOWLEDGE OF THE PROPERTY'S POSSIBLE USES.

(B) "NET REVENUE" MEANS THE PROCEEDS FROM THE SALE OF THE PROPERTY LESS REIMBURSEMENT FOR ANY COSTS TO THE DEPARTMENT ASSOCIATED WITH THE SALE, INCLUDING, BUT NOT LIMITED TO, ADMINISTRATIVE COSTS, INCLUDING EMPLOYEE WAGES, SALARIES, AND BENEFITS; COSTS OF REPORTS AND STUDIES AND OTHER MATERIALS NECESSARY TO THE PREPARATION OF SALE; ENVIRONMENTAL REMEDIATION; LEGAL FEES; AND ANY LITIGATION COSTS RELATED TO THE CONVEYANCE.

(C) "PUBLIC USE" MEANS, SUBJECT TO SUBDIVISION (D), ACTUAL USE OF THE PROPERTY BY MEMBERS OF THE PUBLIC OR ACTUAL USE BY THE UNIT OF LOCAL GOVERNMENT FOR ANY OF THE FOLLOWING:

(i) PUBLICLY OWNED AND OPERATED CORRECTIONAL FACILITIES.

(ii) LAW ENFORCEMENT PURPOSES.

(iii) EMERGENCY MANAGEMENT RESPONSE PURPOSES.

(iv) PUBLIC EDUCATIONAL USE.

(v) PUBLIC TRANSPORTATION.

(vi) PUBLIC PARKS AND RECREATIONAL AREAS.

(vii) PUBLIC HEALTH USES.

(viii) WILDLIFE CONSERVATION OR RESTORATION.

(D) "PUBLIC USE" DOES NOT INCLUDE USE BY A FOR-PROFIT ENTERPRISE OR ANY USE THAT IS CLOSED TO THE PUBLIC.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.