



State Agency Authority for Land Disposition

December 2009

Board of Trustees' Land Disposition

History

Prior to 1967, individual state agencies held title to their own lands for purposes associated with their respective programs. In 1967, the Florida Legislature enacted Chapter 67-269, Laws of Florida, amending Chapter 253.03 of the Florida Statutes directing that title to all lands held in the name of the state or any of its boards, departments, agencies or commissions be vested in the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) for the use and benefit of the state. This legislative action transferred over 750,000 additional acres of lands owned by the following state agencies to the Board of Trustees:

Board of Parks and Memorials	Department of Health and
Outdoor Recreational Council	Rehabilitative Services
Department of Agriculture	Citrus Commission
Board of Forestry	Department of Conservation
Department of Community Affairs	Department of State
Department of Commerce	
Game and Fish Commission	
Board of Education	
Road Department (isolated parcels)	

Exceptions were recognized for properties which were: (1) held for transportation facilities, transportation corridors, canal rights-of-way, spoil areas and lands required for disposal of materials or borrow pits; (2) vested or may become vested in any port authority, flood control district, water management district, or navigation district or agency created by any general or special act; (3) conveyed to the state for military purposes only, including Camp Blanding; (4) subject to reversion if conveyed by the agency to the Board of Trustees; (5) subject to reversion if the conveyance would work a reversion from any other cause; or (6) encumbered by or subject to liens, trust agreements or any form of contract which encumbered the properties for repayment of funded debt. The Bryant Building in Tallahassee is one such exception. It was originally acquired by the Board of Commissioners of State Institutions and subsequently conveyed to the Florida Development Commission to finance a bond issue to construct a building for the Florida Fish and Wildlife Conservation Commission (Commission). Other examples would be Department of Agriculture and Consumer Services' (DACs) Conner Building and Department of Citrus' Headquarters Building, which were acquired via trust funds.

Disposition of Board of Trustees' Land

Pursuant to [Section 253.03](#), F.S., the Board of Trustees has the authority to dispose of lands for which it holds title. The Department of Environmental Protection (Department) advertises surplus properties on its website. In addition, individuals, local governments or businesses can request to purchase a specific parcel. Surplus procedures are detailed in [Section 253.034](#), F.S., and Rule [18-2](#), F.A.C., and include first offering to lease the property to universities and state agencies before offering the property for sale. [Section 253.111](#), F.S., requires that the county in which a surplus property is located gets the right to purchase the property for fair market value.

An [application](#) to purchase the property must be submitted to the Division of State Lands (DSL) for review. The Board of Trustees or Department staff, through a delegation of authority, has the right to deny any application to purchase surplus land and also reserves the right to make a determination that a parcel shall be competitively bid. If more than one party is interested in a particular surplus parcel, that parcel will be sold by competitive sealed bid. In addition, a parcel must be competitively bid if it has a market value of more than \$100,000. The sales price is determined by an appraisal obtained pursuant to [Section 18-1.006](#), F.A.C., or by a comparable sales analysis or broker's opinion of value on land estimated to be valued at less than \$100,000.

The Board of Trustees must approve the sale of state-owned land by at least three affirmative votes. The approval of conservation land sales also requires the Board of Trustees to make the determination that the land is no longer needed for conservation purposes. In the case of a land exchange involving conservation lands, at least three Board members must affirm that the exchange will result in a net positive conservation benefit.

Proceeds

Proceeds from a sale are to be deposited into: (1) the fund from which the lands were acquired; (2) if the fund no longer exists, an appropriate account to be used for land management by the lead agency that managed the lands prior to disposition; or (3) the Internal Improvement Trust Fund for non-conservation lands, or lands that were acquired by gift, donation, or no consideration. There are exceptions in which a managing agency receives the proceeds specifically for purposes of acquiring alternative sites for its use. One example is the sale of the Sunland Hospital site where the proceeds were directed by Chapter 2002-397, Laws of Florida, to go to the Department of Children and Family Services Administrative Trust Fund to construct, renovate, equip, maintain and improve DCF facilities.

State Agency Land Disposition

Exceptions

There are exceptions for certain parcels that are held by agencies, commissions or districts but are still subject to Board of Trustees approval of any disposition. Some exceptions would be:

- Pursuant to Section [379.3002](#), F.S., lands titled to the Commission in the J.W. Corbett and Cecil M. Webb Wildlife Management Areas may be sold, but any such sale requires the consent of the Board of Trustees even though the Commission holds title.
- Section [570.07\(25\)](#), F.S., enables DACS to dispose of real property to which they hold title, with the approval of a majority of the Board of Trustees.

There are also cases where the Board of Trustees holds title to property but the surplusing process or proceeds are directed by another section of the statutes, such as:

- The Board of Trustees may deed non-conservation forestry facilities to DACS pursuant to Section [253.025\(13\)\(a\)](#), F.S., and DACS may sell them and deposit the proceeds into their Relocation and Construction Trust Fund.
- The Department may identify parcels that were acquired for use as the Cross Florida Barge Canal that may be sold pursuant to Section [253.782](#), F.S., but the property must be offered for surplus under the following four requirements pursuant to Section [253.783](#), F.S.:
 - 1.) First right of refusal to the county in which the property lies at current appraised value;
 - 2.) Second right of refusal at current appraised value to the original owner or their heirs by public advertisement in at least three newspapers in the area for 14 days;
 - 3.) Third right of refusal at current appraised value to any person leasing the land from the canal authority; and
 - 4.) Offer to highest bidder at a public sale advertised in a newspaper of general circulation within the county in which the lands are located at least 14 days prior to the date of sale with current appraised value being the minimum bid acceptable.

The funds received are deposited into the Land Acquisition Trust Fund.

- Chapter 90-148, Laws of Florida (1990) allows the Institute of Food and Agricultural Sciences (IFAS) to sell Board of Trustees-owned land that IFAS leases when it is no longer needed, subject to Board of Trustees' approval, and deposit the proceeds into its Relocation and Construction Fund.

Department of Transportation (DOT)

DOT holds title to the road rights-of way and transportation corridors which are not subject to Board of Trustees surplusing procedures. While they hold title to those specific state-owned parcels, they do not hold title to maintenance yards, district office buildings, etc., that are held by the Board of Trustees and utilized for DOT day-to-day operations. In the case of the Board of Trustees' parcels, any surplus request would be handled by the Department utilizing all Board of Trustees' procedures.

Department of Management Services (DMS)

Pursuant to [Section 270.27, F.S.](#), DMS is authorized to sell detached pieces or parcels of state-owned land under their supervision and control if they determine them to be unsuitable, unnecessary or useful in the operation or maintenance of an agency. The proceeds are to be deposited into the DMS' state treasury account for use on behalf of the agency where the original funds were derived to acquire additional land or conduct building repairs for the agency. DMS is also responsible for the sale of those parcels known as the Capitol Center in the City of Tallahassee.

DMS is required by [Section 255.503\(7\), F.S.](#), to recommend to DSL the disposition of any facility in the Florida Facilities Pool and at the same time to provide to the President of the Senate, the Speaker of the House of Representatives, the Executive Office of the Governor, and the Division of Bond Finance of the State Board of Administration an analysis that includes:

1. The cost benefit of the proposed facility disposition, including the facility's current operating expenses, condition, and market value, and viable alternatives for work space for impacted state employees.
2. The effect of the proposed facility disposition on the financial status of the Florida Facilities Pool, including the effect on rental rates and coverage requirement for the bonds.

Water Management Districts also hold title to public property and are subject to Chapter 373, F.S., and Chapter 40, F.A.C., but are not subject to Board of Trustees surplusing procedures. The Board of Trustees has approved acquiring property and holding title jointly with water management districts but it has not approved the districts' surplusing procedures. Therefore, if title to a parcel is held jointly by a water management district and the Board of Trustees and the parcel is proposed to be surplus, then Board of Trustees disposition procedures would have to be followed.

Inland Navigation Districts (District) must adhere to the requirements of [Section 374.984\(6\)\(g\), F.S.](#), when the District desires to dispose of surplus land. The District's Board must declare the property surplus by resolution and then offer the property to the Secretary of the Department, the county commission chair, and the mayor if within a municipality, for outdoor recreation or conservation purposes. If none of the entities need the property, the District may then sell the land at public auction.

Summary

Chapter 253, F.S., provides the authorization under which the Board of Trustees may hold title to state property and under which it is authorized to surplus this property. In 1967, the majority of state agencies, commissions, boards and departments were required to convey title to their real property to the Board of Trustees. There were certain types of property excluded by the Legislature because of various conditions that could negatively impact the state which are still in effect today. Under the law, certain state entities are allowed to hold title to real property but may surplus it only with approval of the Board of Trustees, and certain state entities hold title to real property that the Board of Trustees has no title interest in or statutory authority under which to be involved in surplusing.