



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB5205

Introduced 1/31/2022, by Rep. Michael Halpin

#### SYNOPSIS AS INTRODUCED:

605 ILCS 5/4-508

from Ch. 121, par. 4-508

Amends the Illinois Highway Code. Allows the Department of Transportation to sell land, dedications, easements, access rights, or any interest in the real estate that it holds, or other properties acquired but no longer needed for highway purposes for fair market value (rather than for less than the appraised value). Provides that the fair market value may be based on one or more appraisals. Provides that the Department shall justify a sale below the fair market value. Provides that the Department shall develop a policy to assign a monetary value of all considerations. Provides for the order of priority in which the Department shall offer the real property. Makes other changes.

LRB102 25108 RAM 34370 b

1 AN ACT concerning property.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Highway Code is amended by  
5 changing Section 4-508 as follows:

6 (605 ILCS 5/4-508) (from Ch. 121, par. 4-508)

7 Sec. 4-508. (a) Except as provided in paragraphs (c) and  
8 (d) of this Section, and subject to the written approval of the  
9 Governor and, if required by federal law or regulation, the  
10 Federal Highway Administration, the Department may dispose of,  
11 by public sale, at auction or by sealed bids, any land,  
12 dedications, easements, access rights, or any interest in the  
13 real estate that it holds, ~~rights~~ or other properties, real or  
14 personal, acquired for but no longer needed for highway  
15 purposes or remnants acquired under the provisions of Section  
16 4-501. Such ~~, provided that no such~~ sale may be made at ~~for~~  
17 ~~less than~~ the fair market ~~appraised~~ value of such land,  
18 rights, or property, as determined by the Department. The fair  
19 market value of the land, rights, or property may be based on  
20 one or more appraisals completed by a qualified appraiser  
21 approved by the Department or a valuation waiver prepared by  
22 the Department. A sale below the fair market value, as  
23 established by this Section, shall be justified, in writing,

1 by Department staff, which shall include consideration of all  
2 relevant information, including, but not limited to, findings  
3 regarding the best interests of the Department, other public  
4 benefits such as divestment of liabilities, or changed  
5 circumstances. The Department shall develop a policy to assign  
6 a monetary value of all such considerations in valuation  
7 determinations. An appraisal may be paid for by any interested  
8 party. The form of the conveyance or release shall be in a form  
9 approved by the Department.

10 (b) Except as provided in paragraphs (c) and (d) of this  
11 Section, and subject to the written approval of the Governor,  
12 the Department may exchange any land, rights or property no  
13 longer needed for highway purposes or remnants acquired under  
14 the provisions of Section 4-501 of this Code for equivalent  
15 interests in land, rights or property needed for highway  
16 purposes. Where such interests are not of equivalent value  
17 cash may be paid or received for the difference in value.

18 (c) If at the time any property previously determined by  
19 the Department to be needed for highway purposes is declared  
20 excess and no longer needed for the Department's ~~such~~  
21 purposes, and before making the property available for public  
22 sale as provided in subsection (a), the Department shall offer  
23 that real property as follows:

24 (1) To the person from whom such real property was  
25 acquired that still owns and has continuously owned land  
26 adjacent to or abutting such real property since the

1 acquisition by the Department, the Department ~~before~~  
2 ~~making any disposition of that property~~ shall first offer  
3 the property, in writing, for the fair market ~~that~~  
4 ~~property to the person from whom such property was~~  
5 ~~acquired at the current appraised value of the property.~~  
6 If the Department's offer to such a person is accepted, in  
7 writing, within 60 days of the date of the written offer,  
8 the Department, subject to the written approval of the  
9 Governor, is authorized to dispose of such property to  
10 that person ~~the person from whom such property was~~  
11 ~~acquired upon payment of the appraised value.~~ If the offer  
12 is not accepted, in writing, within 60 days of the date of  
13 the written offer, all rights under this paragraph shall  
14 terminate.

15 (2) If the option in paragraph (1) does not exist or an  
16 offer is made and not accepted, or a sale otherwise is not  
17 consummated, the Department shall offer, in writing, at  
18 the value determined by the Department, the real property  
19 declared excess to the local municipality in which the  
20 property is situated and located, or, if the property is  
21 situated and located in an unincorporated area, to the  
22 county and township, if applicable, in which the property  
23 is situated and located. If a letter of intent to accept  
24 the offer is received by the Department, in writing,  
25 within 15 days of the date of the offer, the local  
26 governmental entity shall have 45 days from the date on

1 the offer to accept the offer formally by resolution of  
2 its governing body. If the offer is formally accepted  
3 within 45 days of the date of the written offer, the  
4 Department, subject to the written approval of the  
5 Governor, is authorized to convey the property to the  
6 governing body upon payment of the value stated in the  
7 offer and may include a reversion for failure to continue  
8 public ownership and use if conveyed for less than fair  
9 market value. If a timely letter of intent to accept and a  
10 formal acceptance is received from a county and a  
11 township, the county shall be given priority. If a letter  
12 of intent is not received within 15 days of the offer, all  
13 rights under this paragraph shall terminate. If the letter  
14 of intent is received within the 15 days, but the formal  
15 acceptance is not received within 45 days of the date of  
16 the written offer, all rights under this paragraph shall  
17 terminate. If the unit of local government does not tender  
18 the funds in the full amount of the accepted offer within  
19 90 days of the date of the offer, all rights under this  
20 paragraph shall terminate. If a county fails to tender the  
21 funds in the full amount of the written accepted offer and  
22 a township tenders the full amount of a timely accepted  
23 offer within 15 days of the county's failure to timely  
24 tender, the Department shall sell the land, rights, or  
25 property to the township. The Department shall have the  
26 right to revoke, in writing, any offer made under this

1 paragraph at any time before the funds in the full amount  
2 of the offer are tendered to the Department.

3 (3) If the option in paragraph (1) or (2) does not  
4 exist or a sale is not otherwise consummated, the  
5 Department shall offer, in writing, at fair market value,  
6 the real property declared excess to an adjacent or  
7 abutting property owner if the property owner is the only  
8 reasonable party as determined by the Department. If the  
9 Department's offer is accepted by the property owner, in  
10 writing, within 60 days of the date of the written offer,  
11 the Department, subject to the written approval of the  
12 Governor, is authorized to convey the property to the  
13 property owner upon payment of the fair market value. If  
14 the offer is not accepted, in writing, within 60 days of  
15 the date of the written offer, all rights under this  
16 paragraph shall terminate.

17 (d) If the Department enters into or currently has a  
18 written contract with another highway authority for the  
19 transfer of jurisdiction of any highway or portion thereof,  
20 the Department is authorized to convey, subject to the written  
21 approval of the Governor, without compensation, any land,  
22 dedications, easements, access rights, or any interest in the  
23 real estate that it holds to that specific highway or portion  
24 thereof to the highway authority that is accepting or has  
25 accepted jurisdiction. However, no part of the transferred  
26 property can be vacated or disposed of without the approval of

1 the Department, which may require compensation for non-public  
2 use.

3 (e) Except as provided in paragraph (c) of this Section,  
4 if the Department obtains or obtained fee simple title to, or  
5 any lesser interest, in any land, right, or other property and  
6 must comply with subdivision (f)(3) of Section 6 of Title I of  
7 the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460  
8 1-8(f)(3)), the Historic Bridge Program established under  
9 Title 23, United States Code, Section 144, subsection (o) (23  
10 U.S.C. 144(o)), the National Historic Preservation Act (16  
11 U.S.C. Sec. 470), the Interagency Wetland Policy Act of 1989,  
12 or the Illinois State Agency Historic Resources Preservation  
13 Act, the Department, subject to the written approval of the  
14 Governor and concurrence of the grantee, is authorized to  
15 convey the title or interest in the land, right, or other  
16 property to another governmental agency, or a not-for-profit  
17 organization that will use the property for purposes  
18 consistent with the appropriate law.

19 The Department may retain rights to protect the public  
20 interest.

21 (Source: P.A. 95-331, eff. 8-21-07.)