

# HB2794



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2794

Introduced 2/16/2023, by Rep. Gregg Johnson

### SYNOPSIS AS INTRODUCED:

605 ILCS 5/4-508

from Ch. 121, par. 4-508

Amends the Illinois Highway Code. Allows, under certain circumstances, the Department of Transportation to sell certain real property related to the Interstate 74 Iowa-Illinois Corridor Project and declared excess. Effective immediately.

LRB103 27135 MXP 53504 b

A BILL FOR

1 AN ACT concerning transportation.

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. Sale of land, rights, or other property by  
8 Department.

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

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

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

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

25 (1) To the person from whom such real property was  
26 acquired that still owns and has continuously owned land

1 adjacent to or abutting such real property since the  
2 acquisition by the Department, the Department shall first  
3 offer the property, in writing, for the fair market value  
4 of the property. If the Department's offer to such a  
5 person is accepted, in writing, within 60 days of the date  
6 of the written offer, the Department, subject to the  
7 written approval of the Governor, is authorized to dispose  
8 of such property to that person. If the offer is not  
9 accepted, in writing, within 60 days of the date of the  
10 written offer, all rights under this paragraph shall  
11 terminate.

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

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

26 (3) If the option in paragraph (1) or (2) does not

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

14 (c-1) With respect only to property related to the  
15 Interstate 74 Iowa-Illinois Corridor Project, if the options  
16 in paragraph (c) do not exist or an offer is made and not  
17 accepted within 60 days of the date of a written offer, or a  
18 sale otherwise is not consummated, the Department shall offer,  
19 in writing, at either the current appraised value or at such  
20 other value as may be determined by the Department, the real  
21 property declared excess to the municipality where the  
22 property is located. If a letter of intent to accept the offer  
23 is received by the Department, in writing, within 30 days of  
24 the date of the offer, the municipality shall have 45 days from  
25 the date of the offer to accept the offer formally by  
26 resolution of its corporate authorities. If the offer is

1 formally accepted within 45 days of the date of the written  
2 offer, the Department, subject to the written approval of the  
3 Governor, is authorized to convey the property to the  
4 municipality upon payment of the value stated in the offer and  
5 may include a reversion for failure to continue public  
6 ownership and use if conveyed for less than the fair market  
7 value. If a letter of intent is not received within 15 days of  
8 the offer, the offer shall terminate. If the letter of intent  
9 is received within 30 days, but the formal acceptance is not  
10 received within 45 days of the date of the written offer, the  
11 offer shall terminate. If the municipality does not tender the  
12 funds in the full amount of the accepted offer within 90 days  
13 after the date of adoption of the resolution by the  
14 municipality's corporate authorities accepting the offer, the  
15 offer shall terminate. The Department has the right to revoke  
16 in writing any offer made under this subsection at any time  
17 before the funds in the full amount of the offer are tendered  
18 to the Department.

19 (d) If the Department enters into or currently has a  
20 written contract with another highway authority for the  
21 transfer of jurisdiction of any highway or portion thereof,  
22 the Department is authorized to convey, subject to the written  
23 approval of the Governor, without compensation, any land,  
24 dedications, easements, access rights, or any interest in the  
25 real estate that it holds to that specific highway or portion  
26 thereof to the highway authority that is accepting or has

1 accepted jurisdiction. However, no part of the transferred  
2 property can be vacated or disposed of without the approval of  
3 the Department, which may require compensation for non-public  
4 use.

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

21 The Department may retain rights to protect the public  
22 interest.

23 (Source: P.A. 102-974, eff. 1-1-23.)

24 Section 99. Effective date. This Act takes effect upon  
25 becoming law.