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**SENATE BILL NO. 691**

Offered February 4, 2002

*A BILL to amend and reenact § 2.2-1156 of the Code of Virginia, relating to the Department of State Police; sale or lease of surplus property; communication towers.*

Patron—Trumbo

Unanimous consent to introduce

Referred to Committee on General Laws

**Be it enacted by the General Assembly of Virginia:****1. That § 2.2-1156 of the Code of Virginia is amended and reenacted as follows:**

§ 2.2-1156. Sale or lease of surplus property.

Except when a department, agency or institution notifies the Department of a need for property which has been declared surplus, and the Department finds that stated need to be valid and best satisfied by the use of the property, the Department may dispose of the property as provided in this section.

A. After it determines the property to be surplus to the needs of the Commonwealth, the Department may, with the prior written approval of the Governor, proceed to sell the property. The sale shall be by public auction, or sealed bids, or by marketing through one or more real estate brokers licensed by the Commonwealth. Notice of the date, time and place of sale, if by public auction or sealed bids shall be given by advertisement in at least two newspapers published and having general circulation in the Commonwealth, at least one of which shall have general circulation in the county or city in which the property to be sold is located. At least thirty days shall elapse between publication of the notice and the auction or the date on which sealed bids will be opened.

In instances where the appraised value of property proposed to be sold is determined to be a nominal amount or an amount insufficient to warrant statewide advertisement, but in no event in excess of \$50,000, the notice of sale may be placed in only one newspaper having general circulation in the county or city in which the property to be sold is located.

B. The Department shall have the right to reject any and all bids or offers when, in the opinion of the Department, the price is inadequate in relation to the value of the property or if a need has been found for the property. If the Department deems the bid or offer fair and adequate in relation to the value of the property, and if no other need for the property has been found, the Department shall recommend acceptance of the bid or offer to the Governor for approval. In lieu of the sale of any such property, the Department may, with the approval of the Governor, lease it to any responsible person, firm or corporation on such terms as are fair and adequate in relation to the value of the property. The provisions of this section requiring disposition of property through the medium of sealed bids, public auction, or marketing through licensed real estate brokers shall not apply to any lease thereof, although such procedures may be followed in the discretion of the Department. The deed or lease to the property shall be executed in the name of the Commonwealth and shall be in a form approved by the Attorney General. Notwithstanding any law to the contrary and notwithstanding how title to the property was acquired, the deed or lease may be executed on behalf of the Commonwealth by the Director of the Department or his designee, and such action shall not create a cloud on the title to the property. The terms of the sale or lease shall be subject to the written approval of the Governor.

C. An exception to sale by sealed bids, public auction, or listing the property with a licensed real estate broker may be granted by the Governor if the property is landlocked and inaccessible from a public road or highway. In such cases, the Department shall notify all adjacent landowners of the Commonwealth's desire to dispose of the property. After the notice has been given, the Department may begin negotiations for the sale of the property with each interested adjacent landowner. The Department, with the approval of the Governor, may accept any offer which it deems to be fair and adequate consideration for the property. In all cases, the offer shall be the best offer made by any adjacent landowner. The terms of all negotiations shall be public information.

D. ~~Fifty~~ Except as provided in subsection E, fifty percent of the proceeds from all sales or leases, or from the conveyance of any interest in property under the provisions of this article, above the costs of the transaction, which costs shall include fees or commissions, if any, negotiated with and paid to auctioneers or real estate brokers, shall be paid, subject to any contrary provisions of law, into the Conservation Resources Fund, so long as the sales or leases pertain to general fund agencies or the property involved was originally acquired through the general fund, except as provided in Chapter 180 of the Acts of Assembly of 1966. The remaining fifty percent of proceeds involving general fund sales

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59 or leases, less a pro rata share of any costs of the transactions, shall be deposited in the general fund of  
60 the state treasury. The Department of Planning and Budget shall develop guidelines which allow, with  
61 the approval of the Governor, any portion of the deposit in the general fund to be credited to the  
62 agency, department or institution having control of the property at the time it was determined surplus to  
63 the Commonwealth's needs. Any amounts so credited to an agency, department or institution may be  
64 used, upon appropriation, to supplement maintenance reserve funds or capital project appropriations, or  
65 for the acquisition, construction or improvement of real property or facilities. Net proceeds from sales or  
66 leases of special fund agency properties or property acquired through a gift for a specific purpose shall  
67 be retained by the agency or used in accordance with the original terms of the gift.

68 *E. The proceeds and in kind goods or services received from all sales or leases, or from the*  
69 *conveyance of any interest in Department of State Police communication towers or sites, above the costs*  
70 *of the transaction shall be paid to or received by the Department of State Police to be used to operate,*  
71 *acquire, construct, maintain, repair or replace communication towers, sites, and systems of the*  
72 *Department of State Police.*

73 *EF.* When the Department deems it to be in the best interests of the Commonwealth, it may, with the  
74 approval of the Governor, authorize the department, institution or agency in possession or control of the  
75 property to dispose of surplus property in accordance with the procedures set forth in this section.