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**HOUSE BILL NO. 1107**

Offered January 13, 2010

Prefiled January 13, 2010

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

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 Referred to Committee on General Laws
 

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**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 and excess building space.

The Department shall identify real property assets that are surplus to the current and reasonably anticipated future needs of the Commonwealth and may dispose of surplus assets as provided in this section, 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.

A. After it determines the property to be surplus to the needs of the Commonwealth and that such property should be sold, the Department shall request the written opinion of the Secretary of Natural Resources as to whether the property is a significant component of the Commonwealth's natural or historic resources, and if so how those resources should be protected in the sale of the property. The Secretary of Natural Resources shall provide this review within 15 business days of receipt of full information from the Department. Within 120 days of receipt of the Secretary's review, the Department shall, with the prior written approval of the Governor, proceed to sell the property.

B. 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.

C. 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 \$250,000, 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.

D. The Department may 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, the proposed terms are unacceptable, or if a need has been found for the property.

E. In lieu of the sale of any such property, or in the event the Department determines there is space within a building owned by the Commonwealth or any space leased by the Commonwealth in excess of current and reasonably anticipated needs, the Department may, with the approval of the Governor, lease or sublease such property or space to any responsible person, firm or corporation on such terms as shall be approved by the Governor; provided, however the authority herein to sublease space leased by the Commonwealth shall be subject to the terms of the original lease. 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.

F. The deed, lease, or sublease conveying the property or excess space 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, lease, or sublease shall be subject to the written approval of the Governor.

G. 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

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59 consideration for the property. In all cases, the offer shall be the best offer made by any adjacent  
60 landowner. The terms of all negotiations shall be public information.

61 H. ~~Fifty~~ Except as provided in subsection H1, 50 percent of the proceeds from all sales or leases, or  
62 from the conveyance of any interest in property under the provisions of this article, above the costs of  
63 the transaction, which costs shall include fees or commissions, if any, negotiated with and paid to  
64 auctioneers or real estate brokers, shall be paid, subject to any contrary provisions of law, into the  
65 Conservation Resources Fund, so long as the sales or leases pertain to general fund agencies or the  
66 property involved was originally acquired through the general fund, except as provided in Chapter 180  
67 of the Acts of Assembly of 1966. The remaining 50 percent of proceeds involving general fund sales or  
68 leases, less a pro rata share of any costs of the transactions, shall be deposited in the general fund of the  
69 state treasury. The Department of Planning and Budget shall develop guidelines which allow, with the  
70 approval of the Governor, any portion of the deposit in the general fund to be credited to the agency,  
71 department or institution having control of the property at the time it was determined surplus to the  
72 Commonwealth's needs. Any amounts so credited to an agency, department or institution may be used,  
73 upon appropriation, to supplement maintenance reserve funds or capital project appropriations, or for the  
74 acquisition, construction or improvement of real property or facilities. Net proceeds from sales or leases  
75 of special fund agency properties or property acquired through a gift for a specific purpose shall be  
76 retained by the agency or used in accordance with the original terms of the gift. Notwithstanding the  
77 foregoing, income from leases or subleases above the cost of the transaction shall first be applied to rent  
78 under the original lease and to the cost of maintenance and operation of the property. The remaining  
79 funds shall be distributed as provided herein.

80 H1. *Proceeds from all sales or leases, or from the conveyance of any interest in Department of State*  
81 *Police communication towers or sites, above the costs of the transaction, shall be deposited in a special*  
82 *account of the Department of State Police to be used to acquire, construct, maintain, repair or replace*  
83 *communication towers or sites.*

84 I. When the Department deems it to be in the best interests of the Commonwealth, it may, with the  
85 approval of the Governor, authorize the department, institution or agency in possession or control of the  
86 property to dispose of surplus property in accordance with the procedures set forth in this section.