

10105304D

SENATE BILL NO. 140**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the Senate Committee on Finance
on February 11, 2010)

(Patrons Prior to Substitute—Senators Miller, J.C. and Saslaw [SB 605])

*A BILL to amend and reenact § 62.1-132.19 of the Code of Virginia, relating to change in ownership of any Virginia port.***Be it enacted by the General Assembly of Virginia:****1. That § 62.1-132.19 of the Code of Virginia is amended and reenacted as follows:**

§ 62.1-132.19. Acquisition and lease of property.

A. The Authority is empowered to rent, lease, buy, own, acquire, construct, reconstruct, and dispose of harbors, seaports, port facilities, and such property, whether real or personal, as it may find necessary or convenient and issue revenue bonds therefor without pledging the faith and credit of the Commonwealth.

B. The Authority may lease to another such part or all of its real or personal property for such period and upon such terms and conditions as the Authority may determine.

C. The Authority shall neither expend funds nor incur any indebtedness for any improvement, repair, maintenance, or addition to any real or personal property owned by anyone other than the Authority, the Commonwealth, or a political subdivision of the Commonwealth, unless either (i) the use of such property is guaranteed to the Authority or the Commonwealth by a lease extending beyond the useful life of the improvement, repair, maintenance, addition, or new facility, or (ii) such expenditure or indebtedness is approved in writing by the Governor.

*D. Notwithstanding any provision of this section or any other law, neither the Commonwealth, the Authority, any governmental entity, nor any other person shall (i) enter into any contract to sell any harbor, seaport, marine terminal, or other port facility, or inland intermodal facility owned by the Commonwealth or the Authority, or (ii) enter into any lease, concession agreement, or similar type of agreement that transfers to a nongovernmental entity possession or control of any such harbor, seaport, marine terminal, or other port facility, or inland intermodal facility for a period longer than 20 years at a time. Any lease, concession agreement, or similar type of agreement described in clause (ii) shall be approved by the Governor. The prohibition herein shall extend to any entity formed or created by the Authority.**However, nothing in this subsection shall be construed or interpreted as prohibiting the Authority from entering into a joint venture of any duration with a nongovernmental entity relating to the management or operation of any such harbor, seaport, marine terminal, or other port facility, or inland intermodal facility provided that the joint venture (a) provides for both the Authority and the nongovernmental entity on an ongoing basis to share in the net profits and risks from the operation of such harbor, seaport, marine terminal, or other port facility, or inland intermodal facility, (b) provides for both the Authority and the nongovernmental entity to have an active involvement in the management or operation of such harbor, seaport, marine terminal, or other port facility, or inland intermodal facility, (c) does not convey any property interest to any nongovernmental entity, but excluding a deed of trust, security agreement, or similar conveyance solely for purposes of securing an obligation of the Authority, (d) enhances the value of such harbor, seaport, marine terminal, or other port facility, or inland intermodal facility as determined by the Authority, and (e) is in the best interests of the Commonwealth as determined by the Authority. As used herein, the term "joint venture" shall mean any general partnership, limited partnership, limited liability company, business trust, or any other special purpose business entity.*