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HOUSE BILL NO. 2003

Offered January 12, 2011

Prefiled January 11, 2011

A BILL to amend and reenact § 2.2-1156 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.2-1156.1, relating to the Department of General Services; surplus real property; inventory of state-owned land.

 Patron—LeMunyon

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 and that the Code of Virginia is amended by adding a section numbered 2.2-1156.1 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

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59 begin negotiations for the sale of the property with each interested adjacent landowner. The Department,
60 with the approval of the Governor, may accept any offer which it deems to be fair and adequate
61 consideration for the property. In all cases, the offer shall be the best offer made by any adjacent
62 landowner. The terms of all negotiations shall be public information.

63 H. Fifty percent of the proceeds from all sales or leases, or from the conveyance of any interest in
64 property under the provisions of this article, above the costs of the transaction, which costs shall include
65 fees or commissions, if any, negotiated with and paid to auctioneers or real estate brokers, shall be paid,
66 subject to any contrary provisions of law, into the ~~Conservation Resources~~ *State Park Acquisition and*
67 *Development* Fund, so long as the sales or leases pertain to general fund agencies or the property
68 involved was originally acquired through the general fund, except as provided in Chapter 180 of the
69 Acts of Assembly of 1966. *However, if such 50 percent amount exceeds \$1 million, then that portion of*
70 *the amount in excess of \$1 million shall be paid into the Transportation Trust Fund.* The remaining 50
71 percent of proceeds involving general fund sales or leases, less a pro rata share of any costs of the
72 transactions, shall be deposited in the general fund of the state treasury. The Department of Planning
73 and Budget shall develop guidelines which allow, with the approval of the Governor, any portion of the
74 deposit in the general fund to be credited to the agency, department or institution having control of the
75 property at the time it was determined surplus to the Commonwealth's needs. Any amounts so credited
76 to an agency, department or institution may be used, upon appropriation, to supplement maintenance
77 reserve funds or capital project appropriations, or for the acquisition, construction or improvement of
78 real property or facilities. Net proceeds from sales or leases of special fund agency properties or
79 property acquired through a gift for a specific purpose shall be retained by the agency or used in
80 accordance with the original terms of the gift. Notwithstanding the foregoing, income from leases or
81 subleases above the cost of the transaction shall first be applied to rent under the original lease and to
82 the cost of maintenance and operation of the property. The remaining funds shall be distributed as
83 provided herein.

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.

87 *J. The provisions of this section shall not apply to (i) the sale, lease or conveyance of and interest in*
88 *property held in the name of and under the control of any public institution of higher education or (ii)*
89 *the sale of property held by the Department of Behavioral Health and Developmental Services that the*
90 *proceeds from which are required to be deposited in the Behavioral Health and Developmental Services*
91 *Trust Fund established under § 37.2-318.*

92 *§ 2.2-1156.1. Inventory of state-owned property.*

93 *The Department shall inventory all real property owned by the Commonwealth by December 31,*
94 *2012, and updated the inventory at least annually thereafter. The inventory will be reviewed to enable*
95 *the Department to make recommendations on the disposal of real property determined to be surplus*
96 *property.*

97 *The Department shall submit an annual report by December 31 of each year to the Governor and*
98 *the General Assembly containing the full inventory of real property owned by the Commonwealth and*
99 *recommendations regarding property that may be disposed of as surplus property pursuant to § 2.2-1156*
100 *and make this inventory available on the Department's website. The description of surplus property shall*
101 *include parcel identification consistent with national spatial data standards in addition to a street*
102 *address. The December 31, 2011 report shall be an interim report including a partial list of real*
103 *property and recommendations regarding disposal as surplus.*