

## CHAPTER 425

*An Act to amend and reenact §§ 2.2-1147 and 2.2-1149 of the Code of Virginia, relating to the Department of Rail and Public Transportation; acquisition of real estate and rights-of-way.*

[H 613]

Approved March 11, 2016

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-1147 and 2.2-1149 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-1147. Definitions.**

As used in §§ 2.2-1147.1 through 2.2-1156, unless the context requires a different meaning:

"Institutions" ~~shall include~~ *includes*, but ~~is not be~~ limited to, any corporation owned by the Commonwealth and subject to the control of the General Assembly.

"Property" ~~shall mean~~ *means* an interest in land and any improvements thereon held by the Commonwealth and under the control of or occupied by any of its departments, agencies, or institutions; but ~~shall does~~ not include (i) real estate or rights-of-way acquired by the Department of Transportation for the construction of highways ~~and~~; (ii) ungranted shores of the sea, marsh, and meadowlands as defined in § 28.2-1500; *or* (iii) *real estate or rights-of-way acquired by the Department of Rail and Public Transportation for the construction of railway lines or rail or public transportation facilities or the retention of rail corridors for public purposes.*

"Recommend," "recommended," or "recommendation," when used with reference to a recommendation by the Department of General Services to the Governor, means to advise either for or against a proposed action.

**§ 2.2-1149. Department to review proposed acquisitions of real property; approval by the Governor; exceptions.**

Notwithstanding any provision of law to the contrary, no state department, agency or institution shall acquire real property by gift, lease, purchase or any other means or use or occupy real property without following the guidelines adopted by the Department and obtaining the prior approval of the Governor. The Department shall review every proposed acquisition of real property by gift, lease, purchase or any other means and every proposed use or occupancy of real property by any department, agency or institution of the Commonwealth and recommend either approval or disapproval of the transactions to the Governor based on cost, demonstrated need, and compliance with the Department's guidelines.

The provisions of this section shall not apply to the:

1. Acquisition of real property for open space preservations pursuant to the purposes of § 10.1-1800 and subdivision A 4 of § 10.1-2204, if it does not require as a condition of acceptance, an appropriation of any state funds for the continued maintenance of such property;

2. Acquisition of easements pursuant to the purposes of §§ 10.1-1020 and 10.1-1021 or §§ 10.1-1700, 10.1-1702, and 10.1-1702;

3. Acquisition through the temporary lease or donation of real property for a period of six months or less duration;

4. Acquisition of easements by public institutions of higher education provided that the particular institution meets the conditions prescribed in subsection B of § 23-38.88;

5. Entering into an operating/income lease or a capital lease by a public institution of higher education, for real property to be used for academic purposes, or for real property owned by the institution or a foundation related to the institution to be used for non-academic purposes, in accordance with the institution's land use plan pursuant to § 2.2-1153 provided that (i) the capital lease does not constitute tax-supported debt of the Commonwealth, (ii) the institution meets the conditions prescribed in subsection B of § 23-38.88, and (iii) for purposes of entering into a capital lease, the institution shall have in effect a signed memorandum of understanding with the Secretary of Administration regarding participation in the nongeneral fund decentralization program as set forth in the appropriation act. For the purposes of this subdivision, an operating/income lease or a capital lease shall be determined using generally accepted accounting principles; ~~or~~

6. Acquisition of real property for the construction, improvement or maintenance of highways and transportation facilities and purposes incidental thereto by the Department of Transportation; however, acquisitions of real property by the Department of Transportation for office space, district offices, residencies, area headquarters, or correctional facilities shall be subject to the Department's review and the Governor's approval; *or*

7. *Acquisition of real estate or rights-of-way for the construction, improvement, or maintenance of railway lines or rail or public transportation facilities or the retention of rail corridors for public purposes associated with the efforts of the Department of Rail and Public Transportation; however,*

*acquisitions of real estate or rights-of-way by the Department of Rail and Public Transportation for office space or district offices shall be subject to review by the Department and the approval of the Governor.*