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HOUSE BILL NO. 2347

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator Stosch
on February 17, 1995)

(Patron Prior to Substitute—Delagate Purkey)

A BILL to amend and reenact § 2.1-512 of the Code of Virginia, relating to proceeds from the sale or lease of state property.

Be it enacted by the General Assembly of Virginia:**1. That § 2.1-512 of the Code of Virginia is amended and reenacted as follows:**

§ 2.1-512. 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 said property, the Department may dispose of such property as herein provided.

A. After such declaration the Department may, with the approval of the Governor in writing first obtained, proceed to sell the property. Under normal or usual circumstances the sale shall be either at public auction or by securing sealed bids. However, in exceptional circumstances, the reasons for which shall be fully documented in the Department's file, the Director of the Division of Engineering and Buildings shall determine that the highest value of the property could be obtained by marketing by licensed real estate brokers, and having obtained the approval of the Director of the Department of General Services, shall have the property listed with one or more real estate brokers licensed by the Real Estate Board. Notice of the time and place of sale, if by public auction, and notice of sale, if sealed bids are to be sought, 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 such 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, upon recommendation of the Division Director and approval of the Director of the Department of General Services, 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 received either at public auction, through sealed bids, or through a licensed real estate broker when, in the opinion of the Department, the price is inadequate in relation to the value of such 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, it shall recommend acceptance of such bid or offer to the Governor for approval. The deed conveying such property to the purchaser shall be executed in the name of the Commonwealth and shall be in form approved by the Attorney General. The terms of the conveyance shall be subject to the approval of the Governor in writing. In lieu of the sale of any such property, the Department may, with the approval of the Governor, lease the same to any responsible person, firm or corporation on such terms as shall be fair and adequate in relation to the value of such property. The provisions of this article requiring disposition of such property through the medium of sealed bids, public auction, or listing the property with a licensed real estate broker shall not apply to any lease thereof, although such procedures may be followed in the discretion of the Department. The deed or lease to such property shall be in a form approved by the Attorney General and shall be executed by the Department of General Services. The terms of any such lease shall be subject to the approval of the Governor, in writing.

B1. 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 such 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, such offer shall be the best offer made by any adjacent landowner. The terms of all negotiations shall be public information.

C. ~~Fifty percent of~~ *Notwithstanding any law to the contrary*, the proceeds from all such sales or leases, or from the conveyance of any interest in property under the provisions of this ~~article~~ *section*, above the costs of such 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

60 agencies or the property involved was originally acquired through the general fund shall be deposited
61 into a special fund set up by the Comptroller to be held and used, upon appropriation, for capital
62 facility acquisition and improvements by state departments, agencies, and institutions, except as provided
63 in Chapter 180 of the Acts of Assembly of 1966. The remaining fifty percent of proceeds involving
64 general fund sales or leases, less a pro rata share of any costs of such transactions, shall be deposited in
65 the general fund of the Commonwealth. The Department of Planning and Budget shall develop
66 guidelines which allow, with the approval of the Governor, any portion of the deposit in the general
67 fund to be credited to the agency, department or institution having control of the property at the time it
68 was determined surplus to the Commonwealth's needs. Any amounts so credited to an agency,
69 department or institution may be used, upon appropriation, to supplement maintenance reserve funds, to
70 supplement capital project appropriations, and for the acquisition, construction or improvement of real
71 property or facilities. However, (i) twenty-five percent of such net proceeds, up to a maximum of
72 \$500,000 during any fiscal year, shall be transferred to the Conservation Resources Fund to be held
73 and used for capital facility acquisition and improvements, and (ii) twenty-five percent of such net
74 proceeds shall be dedicated to capital facility acquisition and improvements by public institutions of
75 higher education. Net proceeds from sales or leases of special fund agency properties or property
76 acquired through a gift for a specific purpose shall be retained by such agency or used in accordance
77 with the original terms of the gift.

78 D. When the Department deems it to be in the best interests of the Commonwealth, it may, with the
79 approval of the Governor, authorize the department, institution or agency in possession or control of the
80 property to dispose of surplus property in accordance with the procedures set forth herein.

81 E. The provisions of this section shall not apply to proceeds derived from the sale of real property
82 authorized in Chapter 690 of the 1994 Acts of Assembly and appropriated in Chapter 966 of the 1994
83 Acts of Assembly, as amended.