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**HOUSE BILL NO. 2161**

Offered January 9, 2019

Prefiled January 8, 2019

*A BILL to amend and reenact § 2.2-1124 of the Code of Virginia, relating to the Department of General Services; disposition of surplus materials; veteran-owned small businesses and veterans service organizations.*

Patrons—Carroll Foy, Ayala, Guzman and Murphy

Referred to Committee on General Laws

**Be it enacted by the General Assembly of Virginia:****1. That § 2.2-1124 of the Code of Virginia is amended and reenacted as follows:****§ 2.2-1124. Disposition of surplus materials.**

A. ~~"Surplus~~ For purposes of this section, "surplus materials" means personal property, including, ~~but not limited to,~~ materials, supplies, equipment, and recyclable items, but ~~shall~~ *does* not include property as defined in § 2.2-1147 that is determined to be surplus. "Surplus materials ~~shall~~ *does* not include finished products that a state hospital or training center operated by the Department of Behavioral Health and Developmental Services sells for the benefit of individuals receiving services in the state hospital or training center, provided that (i) most of the supplies, equipment, or products have been donated to the state hospital or training center; (ii) the individuals in the state hospital or training center have substantially altered the supplies, equipment, or products in the course of occupational or other therapy; and (iii) the substantial alterations have resulted in a finished product.

B. The Department shall establish procedures for the disposition of surplus materials from departments, divisions, institutions, and agencies of the Commonwealth. Such procedures shall:

1. Permit surplus materials to be transferred between or sold to departments, divisions, institutions, or agencies of the Commonwealth;

2. Permit surplus materials to be sold to Virginia charitable corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and operating as clinics for the indigent and uninsured that are organized for the delivery of primary health care services (i) as federally qualified health centers designated by the Health Care Financing Administration or (ii) at a reduced or sliding fee scale or without charge;

3. Permit public sales or auctions, including online public auctions;

4. Permit surplus motor vehicles to be sold prior to public sale or auction to local social service departments for the purpose of resale at cost to TANF recipients;

5. Permit surplus materials to be sold to Virginia charitable corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and operating as children's homes;

6. Permit donations to political subdivisions of the Commonwealth under the circumstances specified in this section;

7. Permit other methods of disposal when (a) the cost of the sale will exceed the potential revenue to be derived therefrom or (b) the surplus material is not suitable for sale;

8. Permit any animal especially trained for police work to be sold at a price of \$1 to the handler who last was in control of the animal. The agency or institution may allow the immediate survivor of any full-time sworn law-enforcement officer who (i) is killed in the line of duty or (ii) dies in service and has at least 10 years of service to purchase the service animal at a price of \$1. Any such sale shall not be deemed a violation of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.);

9. Permit the transfer of surplus clothing to an appropriate department, division, institution, or agency of the Commonwealth for distribution to needy individuals by and through local social services boards;

10. Encourage the recycling of paper products, beverage containers, electronics, and used motor oil;

11. Require the proceeds from any sale or recycling of surplus materials be promptly deposited into the state treasury in accordance with § 2.2-1802 and report the deposit to the State Comptroller;

12. Permit donations of surplus computers and related equipment to public schools in the Commonwealth and Virginia charitable corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and providing services to persons with disabilities, at-risk youths, or low-income families. For the purposes of this subdivision, "at-risk youths" means school-age children approved eligible to receive free or reduced price meals in the federally funded lunch program;

13. Permit surplus materials to be transferred or sold, prior to public sale or auction, to public television stations located in the state and other nonprofit organizations approved for the distribution of

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59 federal surplus materials;

60 14. Permit a public institution of higher education to dispose of its surplus materials at the location  
61 where the surplus materials are held and to retain any proceeds from such disposal, provided that the  
62 institution meets the conditions prescribed in subsection A of § 23.1-1002 and § 23.1-1019 (regardless of  
63 whether or not the institution has been granted any authority under Article 4 (§ 23.1-1004 et seq.) of  
64 Chapter 10 of Title 23.1);

65 15. Permit surplus materials from (i) the Department of Defense Excess Property Program or (ii)  
66 other surplus property programs administered by the Commonwealth to be transferred or sold to Virginia  
67 charitable corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and  
68 operating as an educational institution devoted to emergency management training, preparedness, and  
69 response; and

70 16. Require, to the extent practicable, the recycling and disposal of computers and other information  
71 technology assets. Additionally, for computers or information technology assets that may contain  
72 confidential state data or personal identifying information of citizens of the Commonwealth, the  
73 Department shall ensure all policies for the transfer or other disposition of computers or information  
74 technology assets are consistent with data and information security policies developed by the Virginia  
75 Information Technologies Agency; and

76 17. Permit surplus materials to be transferred or sold, prior to public sale or auction, to (i) small  
77 businesses certified by the Department of Small Business and Supplier Diversity that are (a) military  
78 spouse-owned or (b) veteran-owned and (ii) veterans service organizations.

79 For purposes of this subdivision:

80 "Military spouse" means the spouse of a military service member who performs full-time duty in the  
81 Armed Forces of the United States, or a reserve component thereof, including the National Guard.

82 "Military spouse-owned" means a business that is at least 51 percent owned by one or more military  
83 spouses or, in the case of a corporation, partnership, or limited liability company or other entity, at  
84 least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability  
85 company or other entity is owned by one or more individuals who are military spouses and both the  
86 management and daily business operations are controlled by one or more individuals who are military  
87 spouses.

88 "Veteran" means an individual who has served in the active military, naval, or air service and who  
89 was discharged or released therefrom under conditions other than dishonorable.

90 "Veteran-owned" means a business that is at least 51 percent owned by one or more veterans or, in  
91 the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of  
92 the equity ownership interest in the corporation, partnership, or limited liability company or other entity  
93 is owned by one or more individuals who are veterans and both the management and daily business  
94 operations are controlled by one or more individuals who are veterans.

95 "Veterans service organization" means an association or other entity organized for the benefit of  
96 veterans that has been recognized by the U.S. Department of Veterans Affairs or chartered by Congress.

97 C. The Department shall dispose of surplus materials pursuant to the procedures established in  
98 subsection B or permit any department, division, institution, or agency of the Commonwealth to dispose  
99 of its surplus materials consistent with the procedures so established. No surplus materials shall be  
100 disposed of without prior consent of the head of the department, division, institution, or agency of the  
101 Commonwealth in possession of such surplus materials or the Governor.

102 D. Departments, divisions, institutions, or agencies of the Commonwealth or the Governor may  
103 donate surplus materials only under the following circumstances:

104 1. Emergencies declared in accordance with § 44-146.18:2 or 44-146.28;

105 2. As set forth in the budget bill as defined by § 2.2-1509, provided that (a) the budget bill contains  
106 a description of the surplus materials, the method by which the surplus materials shall be distributed,  
107 and the anticipated recipients, and (b) such information shall be provided by the Department to the  
108 Department of Planning and Budget in sufficient time for inclusion in the budget bill;

109 3. When the market value of the surplus materials, which shall be donated for a public purpose, is  
110 less than \$500; however, the total market value of all surplus materials so donated by any department,  
111 division, institution, or agency shall not exceed 25 percent of the revenue generated by such  
112 department's, division's, institution's, or agency's sale of surplus materials in the fiscal year, except these  
113 limits shall not apply in the case of surplus computer equipment and related items donated to Virginia  
114 public schools; or

115 4. During a local emergency, upon written request of the head of a local government or a political  
116 subdivision in the Commonwealth to the head of a department, division, institution, or agency.

117 E. On or before October 1 of each year, the Department shall prepare, and file with the Secretary of  
118 the Commonwealth, a plan that describes the expected disposition of surplus materials in the upcoming  
119 fiscal year pursuant to subdivision B 6.

120 F. The Department may make available to any local public body of the Commonwealth the services

121 or facilities authorized by this section; however, the furnishing of any such services shall not limit or  
122 impair any services normally rendered any department, division, institution or agency of the  
123 Commonwealth. All public bodies shall be authorized to use the services of the Department's Surplus  
124 Property Program under the guidelines established pursuant to this section and the surplus property  
125 policies and procedures of the Department. Proceeds from the sale of the surplus property shall be  
126 returned to the local body minus a service fee. The service fee charged by the Department shall be  
127 consistent with the fee charged by the Department to state public bodies.

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