## VIRGINIA ACTS OF ASSEMBLY — CHAPTER

*An Act to amend and reenact §§ 2.2-1130, 2.2-1153, 2.2-1156, 2.2-1157, 10.1-1122, and 36-139.1 of the Code of Virginia, relating to the Department of General Services; surplus property; opportunity for economic development entities to purchase prior to public sale.*

[S 1681]

Approved

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

**1. That §§ 2.2-1130, 2.2-1153, 2.2-1156, 2.2-1157, 10.1-1122, and 36-139.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-1130. Care of Virginia War Memorial Carillon.**

A. Notwithstanding the provisions of subsections B and C of § 2.2-1129, the Director of the Department and the City of Richmond shall enter into an agreement that would allow the City to permit the use of or access to the Virginia War Memorial Carillon for such short-term events as the City deems appropriate. The agreement (i) may allow the City to charge and collect a fee for such use and to retain any such fee, and (ii) shall require the City to provide a report by December 1 of each year to the Director of the Department, in a form approved by the Director, detailing (a) the funds collected by the City for use of the Carillon for the preceding year; (b) the funds made available to the City from all sources; and (c) the City's expenditures for upkeep, maintenance, and improvement of the facility.

B. Notwithstanding the provisions of subsection ~~H~~ *J* of § 2.2-1156 or any other law to the contrary, the proceeds from the lease or other conveyance of an interest in the Virginia War Memorial Carillon by the Department shall be paid to the City to be applied with other City funds for the cost of upkeep, maintenance, and improvement of the Virginia War Memorial Carillon. The proceeds are hereby appropriated and shall be paid by the Comptroller to the City as soon as practicable after receipt by the Commonwealth.

C. All funds retained by the City or transferred to the City in accordance with this section and all fees collected by the City from use of or access to the Virginia War Memorial Carillon shall be paid into the City's treasury to the credit of a special fund that shall be used by the City solely for the upkeep, maintenance, and improvement of the Virginia War Memorial Carillon. Use of the special fund for any other purpose is prohibited.

D. Nothing in this section shall abrogate the obligations of the City of Richmond to provide for the upkeep and maintenance of the Carillon.

**§ 2.2-1153. State agencies and institutions to notify Department of property not used or required; criteria.**

A. Whenever any department, agency or institution of state government possesses or has under its control state-owned or leased property that is not being used to full capacity or is not required for the programs of the department, agency or institution, it shall so notify the Department. Such notification shall be in a form and manner prescribed by the Department. Each department, agency and institution shall submit to the Department a land use plan for state-owned property it possesses or has under its control showing present and planned uses of such property. Such plan shall be approved by the cognizant board or governing body of the department, agency or institution holding title to or otherwise controlling the state-owned property or the agency head in the absence of a board or governing body, with a recommendation on whether any property should be declared surplus by the department, agency or institution. Development of such land use plans shall be based on guidelines promulgated by the Department. The guidelines shall provide that each land use plan shall be updated and copies provided to the Department by September 1 of each year. The Department may exempt properties that are held and used for conservation purposes from the requirements of this section. The Department shall review the land use plans, the records and inventory required pursuant to subsections B and C of § 2.2-1136 and such other information as may be necessary and determine whether the property or any portion thereof should be declared surplus to the needs of the Commonwealth. By October 1 of each year, the Department shall provide a report to the Chairmen of the House Appropriations and Senate Finance Committees setting forth the Department's findings, the sale or marketing of properties identified pursuant to this section, and recommending any actions that may be required by the Governor and the General Assembly to identify and dispose of property not being efficiently and effectively utilized. The Department shall provide a listing of surplus properties on the Department's website. The description of surplus property shall include parcel identification consistent with national spatial data standards in addition to a street address.

Until permanent disposition of the property determined to be surplus is effected, the property shall continue to be maintained by the department, agency or institution possessing or controlling it, unless upon the recommendation of the Department, the Governor authorizes the transfer of the property to the possession or control of the Department. In this event, the department, agency or institution formerly possessing or controlling the property shall have no further interest in it.

B. The Department shall establish criteria for ascertaining whether property under the control of a department, agency or institution should be classified as "surplus" to its current or proposed needs. Such criteria shall provide that the cognizant board or governing body, if any, of the department, agency or institution holding the title to or otherwise controlling the state-owned property, or the agency head in the absence of a board or governing body, shall approve the designation of the property as surplus.

C. Notwithstanding the provisions of subsection A:

1. The property known as College Woods, which includes Lake Matoaka and is possessed and controlled by a college founded in 1693, regardless of whether such property has been declared surplus pursuant to this section, shall not be transferred or disposed of without the approval of the board of visitors of such college by a two-thirds vote of all board members at a regularly scheduled board meeting. The General Assembly shall also approve the disposal or transfer.

2. Surplus real property valued at less than $5 million that is possessed and controlled by a public institution of higher education may be sold by such institution, provided that (i) at least 45 days prior to executing a contract for the sale of such property, the institution gives written notification to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees; and (ii) the Governor may postpone the sale at any time up to 10 days prior to the proposed date of sale. Such sale may be effected by public auction, sealed bids, or by marketing through one or more Virginia licensed real estate brokers after satisfying the public notice provisions of subsection ~~A~~ *D* of § 2.2-1156. The terms of all negotiations resulting in such sale shall be public information. The public institution of higher education may retain the proceeds from the sale of such property if the property was acquired by nongeneral funds. If the institution originally acquired the property through a mix of general and nongeneral funds, 50 percent of the proceeds shall be distributed to the institution and 50 percent shall be distributed to the State Park Conservation Resources Fund established under subsection A of § 10.1-202. The authority of a public institution of higher education to sell surplus real property described under this subdivision or to retain any proceeds from the sale of such property shall be subject to the institution meeting the conditions prescribed in subsection A of § 23.1-1002 and § 23.1-1019 (regardless of whether or not the institution has been granted any authority under Article 4 (§ 23.1-1004 et seq.) of Chapter 10 of Title 23.1).

**§ 2.2-1156. Sale or lease of surplus property and excess building space.**

*A.* 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.~~ *B.* 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.~~ *C. Upon receipt of the Secretary's review under subsection B and prior to offering the surplus property for sale to the public, the Department shall notify the chief administrative officer of the locality within which the property is located as well as any economic development entity for such locality of the pending disposition of such property. The chief administrative officer or local economic development entity shall have up to 180 days from the date of such notification to submit a proposal to the Department for the use by the locality or the local economic development entity of such property in conjunction with a bona fide economic development activity. The Department shall review such proposal, and if the Department determines that such proposal is viable and could benefit the Commonwealth, the Department may negotiate with the chief administrative officer or the local economic development entity for the sale of such property to the locality or economic development entity. If no agreement is reached between the Department and the chief administrative officer or the local economic development entity for the sale of the property, or if no proposal for the use of the property is submitted to the Department by the chief administrative officer or the local economic development entity within 180 days of notification of the pending disposition of the property, the Department may proceed to dispose of the property as provided in this section.*

~~The~~ *D. If the surplus property is not disposed of pursuant to subsection C, 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.~~ *E.* 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.~~ *F.* 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.~~ *G.* 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 that the authority herein to sublease space leased by the Commonwealth shall be subject to the terms of the original lease. The Department may with the approval of the Governor permit charitable organizations exempt from taxation under § 501(c)(3) of the Internal Revenue Code that provide addiction recovery services to lease or sublease such property or space at cost and on such terms as shall be approved by the Governor, provided such use is deemed appropriate.

The Department shall post reports from the Commonwealth's statewide electronic procurement system, known as eVA, on the Department's website. The report shall include, at a minimum, current leasing opportunities and sales of surplus real property posted on the eVA's Virginia Business Opportunities website. Such reports shall also be made available by electronic subscription. 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.~~ *H.* 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.~~ *I.* 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 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, the offer shall be the best offer made by any adjacent landowner. The terms of all negotiations shall be public information.

~~H.~~ *J.* Subject to any law to the contrary, 50 percent of the proceeds from all sales or leases, or from the conveyance of any interest in property under the provisions of this article, above the costs of the transaction, which costs shall include fees or commissions, if any, negotiated with and paid to auctioneers or real estate brokers, shall be paid into the State Park Acquisition and Development Fund, so long as the sales or leases pertain to general fund agencies or the property involved was originally acquired through the general fund, except as provided in Chapter 180 of the Acts of Assembly of 1966. The remaining 50 percent of proceeds involving general fund sales or leases, less a pro rata share of any costs of the transactions, shall be deposited in the general fund of the state treasury. The Department of Planning and Budget shall develop guidelines which allow, with the approval of the Governor, any portion of the deposit in the general fund to be credited to the agency, department or institution having control of the property at the time it was determined surplus to the Commonwealth's needs. Any amounts so credited to an agency, department or institution may be used, upon appropriation, to supplement maintenance reserve funds or capital project appropriations, or for the acquisition, construction or improvement of real property or facilities. Net proceeds from sales or leases of special fund agency properties or property acquired through a gift for a specific purpose shall be retained by the agency or used in accordance with the original terms of the gift. Notwithstanding the foregoing, income

from leases or subleases above the cost of the transaction shall first be applied to rent under the original lease and to the cost of maintenance and operation of the property. The remaining funds shall be distributed as provided herein.

~~I.~~ *K.* When the Department deems it to be in the best interests of the Commonwealth, it may, with the approval of the Governor, authorize the department, institution or agency in possession or control of the property to dispose of surplus property in accordance with the procedures set forth in this section.

**§ 2.2-1157. Exploration for and extraction of minerals on state-owned uplands.**

A. The Department of Mines, Minerals and Energy, in cooperation with the Division, shall develop, with the assistance of affected state agencies, departments, and institutions, a State Minerals Management Plan (the "Plan"). The Plan shall include provisions for the holding of public hearings and the public advertising for competitive bids or proposals for mineral exploration, leasing, and extraction activities on state-owned uplands. Sales of mineral exploration permits and leases for these lands shall be administered by the Division, with the advice of the Department of Mines, Minerals and Energy.

B. Upon receiving the recommendation of both the Director of the Department of General Services and the Director of the Department of Mines, Minerals and Energy, the Governor shall determine whether the proposed mineral exploration, leasing, or extraction of minerals on state-owned uplands is in the public interest. No state-owned uplands shall be approved for mineral exploration, leasing, or extraction without a public hearing in the locality where the affected land or the greater portion thereof is located and a competitive bid or proposal process as described in the Plan. The provisions of this section shall not apply to the extraction of minerals on state-owned uplands pursuant to an oil or gas pooling order unless the well through which the extraction will occur is situated on such land.

For purposes of this section, "state-owned uplands" means lands owned by the Commonwealth that (i) lie landward of the mean low water mark in tidal areas or (ii) have an elevation above the average surface water level in nontidal areas.

C. The agencies, departments, or institutions proposing or receiving applications for mineral exploration, leasing or extraction on state-owned uplands shall, through their boards or commissions, recommend ~~as specified in subsection D of § 2.2-1156~~ all such activities to the Division following guidelines set forth in the Plan. The Division and the Department of Mines, Minerals and Energy shall review and recommend to the Governor such proposed activities. Such agencies, departments or institutions, through their boards or commissions, may execute the leases or contracts that have been approved by the Governor.

D. The proceeds from all such sales or leases above the costs of the sale to the Department of Mines, Minerals and Energy or to the agency, department or institution sponsoring the sale shall be paid into the general fund of the state treasury, so long as the sales or leases pertain to general fund agencies or the property involved was originally acquired through the general fund. Net proceeds from sales or leases of special-fund agency properties or property acquired through a gift shall be retained by such agency or institution or used in accordance with the original terms of the gift if so stated.

E. Mining, leasing, and extraction activities in state-owned submerged lands shall be authorized and administered by the Virginia Marine Resources Commission pursuant to § 28.2-100 et seq.

**§ 10.1-1122. Management, harvesting, sale of timber on state-owned land.**

A. The Department in cooperation with the Division of Engineering and Buildings shall develop a forest management plan for state-owned lands with the assistance of affected state agencies, departments and institutions.

B. Prior to the sale of timber from state-owned lands, the proposed sale shall be first approved by the Department and by the Division of Engineering and Buildings. The Department shall make or arrange for all sales so approved and shall deposit all proceeds to the credit of the Fund, except that when sales are made from timber on land held by special fund agencies or the Department of Military Affairs, or from timber on land which is gift property specified in subsection ~~H~~ *J* of § 2.2-1156, the Department shall deposit in the Fund only so much of the proceeds as are needed to defray the cost of the sale and to implement the forestry management plan on that particular tract of land. The remainder of the proceeds from such a sale shall then be paid over to the special fund agency concerned, the Department of Military Affairs, or the agency or institution holding the gift properties, to be used for the purposes of that agency, department, or institution.

**§ 36-139.1. Sale of real property for housing demonstration projects.**

The Director is authorized to sell surplus real property belonging to the Commonwealth which is placed under the control of the Department for the purpose of establishing owner-occupied residential housing demonstration projects, with the prior written approval of the Governor or his designee, who shall first consider the written recommendation of the Director of the Department of General Services. The methods, terms and conditions of sale shall be developed in cooperation with the Department of General Services. Any contract of sale or deed of conveyance shall be approved as to form by the Attorney General or one of his deputies or assistant attorneys general. The proceeds from all such sales

shall be handled in the manner prescribed in subsection ~~H~~ *J* of § 2.2-1156.