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HOUSE BILL NO. 644

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws
on February 3, 2022)

(Patron Prior to Substitute—Delegate Carr)

*A BILL to amend and reenact §§ 2.2-1156, 10.1-1122, and 36-139.1 of the Code of Virginia, relating to Department of General Services; adjustment of boundary lines of surplus property.***Be it enacted by the General Assembly of Virginia:****1. That §§ 2.2-1156, 10.1-1122, and 36-139.1 of the Code of Virginia are amended and reenacted as follows:****§ 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 that has been declared surplus, and the Department finds that stated need to be valid and best satisfied by the use of the property.

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 and Historic 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 and Historic 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.~~

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, *with the prior, written approval of the Governor*, may proceed to dispose of the property as provided in this section.

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~~ *one newspaper* 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 *and be posted on the Department's website*. At least 30 days shall elapse between publication of the notice and the auction or the date on which sealed bids will be opened.

~~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.~~

~~F. E.~~ 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.

~~G. F.~~ 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

60 sublease space leased by the Commonwealth shall be subject to the terms of the original lease. The
61 Department may with the approval of the Governor permit charitable organizations exempt from taxation
62 under § 501(c)(3) of the Internal Revenue Code that provide addiction recovery services to lease or
63 sublease such property or space at cost and on such terms as shall be approved by the Governor,
64 provided such use is deemed appropriate.

65 The Department shall post reports from the Commonwealth's statewide electronic procurement
66 system, known as eVA, on the Department's website. The report shall include, at a minimum, current
67 leasing opportunities and sales of surplus real property posted on the eVA's Virginia Business
68 Opportunities website. Such reports shall also be made available by electronic subscription. The
69 provisions of this section requiring disposition of property through the medium of sealed bids, public
70 auction, or marketing through licensed real estate brokers shall not apply to any lease thereof, although
71 such procedures may be followed in the discretion of the Department.

72 *H. G. The deed, lease, or sublease conveying the property or excess space shall be executed in the*
73 *name of the Commonwealth and shall be in a form approved by the Attorney General. Notwithstanding*
74 *any law to the contrary and notwithstanding how title to the property was acquired, the deed or lease*
75 *may be executed on behalf of the Commonwealth by the Director of the Department or his designee,*
76 *and such action shall not create a cloud on the title to the property. The terms of the sale, lease, or*
77 *sublease shall be subject to the written approval of the Governor.*

78 *In the event that the Department determines that a boundary line of a surplus property requires*
79 *adjustment, the Department may work with the adjacent landowner to adjust the boundary line and to*
80 *transfer property to, or acquire property from, such adjacent landowner. In the event the Department*
81 *determines that granting or accepting an easement over surplus property or the property of the adjacent*
82 *landowner would facilitate the transfer of the surplus property, the Department may enter into any such*
83 *easement on behalf of the department, agency, or institution in possession or control of the property,*
84 *provided, however, that any such easement shall be in a form approved by the Attorney General and*
85 *subject to the written approval of the Governor. The terms of the sale, lease, or sublease shall be subject*
86 *to the written approval of the Governor.*

87 *I. H. An exception to sale by sealed bids, public auction, or listing the property with a licensed real*
88 *estate broker may be granted by the Governor if the property is landlocked and inaccessible from a*
89 *public road or highway. In such cases, the Department shall notify all adjacent landowners of the*
90 *Commonwealth's desire to dispose of the property. After the notice has been given, the Department may*
91 *begin negotiations for the sale of the property with each interested adjacent landowner. The Department,*
92 *with the approval of the Governor, may accept any offer that it deems to be fair and adequate*
93 *consideration for the property. In all cases, the offer shall be the best offer made by any adjacent*
94 *landowner. The terms of all negotiations shall be public information.*

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

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

117 **§ 10.1-1122. Management, harvesting, sale of timber on state-owned land.**

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

121 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 that is gift property specified in subsection ¶ 1 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 that 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 ¶ 1 of § 2.2-1156.