

25101770D

HOUSE BILL NO. 1758

Offered January 13, 2025

Prefiled January 5, 2025

A BILL to amend and reenact §§ 2.2-1153, 2.2-1156, 10.1-1122, and 36-139.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 15.2-1800.5, relating to surplus real property; prioritization of disposition for affordable housing.

Patrons—Gardner, Anthony, Clark, Cole, Convirs-Fowler, Cousins, Helmer, Henson, Jones, Keys-Gamarra, LeVere Bolling, Martinez and Seibold

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1153, 2.2-1156, 10.1-1122, and 36-139.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 15.2-1800.5 as follows:

§ 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 Committee on Appropriations and the Senate Committee on Finance and Appropriations 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

INTRODUCED

HB1758

and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations; 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 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 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.

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.1. If the surplus property is not disposed of pursuant to subsection C, *the Department shall determine whether such property is suitable for the development of affordable housing. Any real property that is surplus to the needs of the Commonwealth and deemed suitable for the development of affordable housing should be designated to meet affordable housing needs and surplus or retained for that purpose, and disposed of pursuant to subdivision 2.*

2. *Surplus property deemed suitable for the development of affordable housing shall be offered for at least 180 days exclusively to eligible organizations for the purpose of developing affordable housing. Eligible organizations may obtain these surplus properties through purchase, lease, exchange, or donation in return for a recorded covenant to provide affordable housing for at least 40 years. The Department may dispose of real property to an eligible entity under this section at a price that is less than fair market value, provided that the housing developed on the property is occupied primarily by individuals or by extremely low-income households, very low-income households, or low-income households.*

3. *For purposes of this subsection:*

"Affordable housing" means the same as that term is defined by § 15.2-2201.

"Eligible organization" means any city, town, or county government, local housing authority, public development authority, nonprofit community or neighborhood-based organization, federally recognized tribe in the Commonwealth, or regional or statewide nonprofit housing assistance organization, including such entities materially participating as a general partner or managing member of a partnership, limited liability company, or equivalent organization.

"Extremely low-income household" means a single person, family, or unrelated persons living together whose income is at or below 30 percent of the county area median income where the affordable housing is located, adjusted for household size.

"Low-income household" means a single person, family, or unrelated persons living together whose income is more than 50 percent but is at or below 80 percent of the county area median income where the affordable housing is located, adjusted for household size.

"Suitable for the development of affordable housing" means a parcel is generally suitable for development, and housing development is compatible with the area.

"Very low-income household" means a single person, family, or unrelated persons living together whose income is more than 30 percent but is at or below 50 percent of the county area median income, for the county where the affordable housing is located, adjusted for household size.

E. If surplus property deemed suitable for the development of affordable housing is not disposed of pursuant to subsection D within 180 days, 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 one newspaper published and having 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. 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.

F. 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.

G. 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.

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

H. 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 that 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.

I. 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 that 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.

¶ 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.

§ 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 that is gift property specified in subsection I 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.

§ 15.2-1800.5. Disposition of surplus property for affordable housing.

A. For purposes of this section:

"Affordable housing" means the same as that term is defined by § 15.2-2201.

"Eligible organization" means any city, town, or county government, local housing authority, public development authority, nonprofit community or neighborhood-based organization, federally recognized tribe in the Commonwealth, or regional or statewide nonprofit housing assistance organization, including such entities materially participating as a general partner or managing member of a partnership, limited liability company, or equivalent organization.

"Extremely low-income household" means a single person, family, or unrelated persons living together whose income is at or below 30 percent of the county area median income where the affordable housing is located, adjusted for household size.

"Low-income household" means a single person, family, or unrelated persons living together whose income is more than 50 percent but is at or below 80 percent of the county area median income where the affordable housing is located, adjusted for household size.

"Suitable for the development of affordable housing" means a parcel is generally suitable for development, and housing development is compatible with the area.

"Very low-income household" means a single person, family, or unrelated persons living together whose income is more than 30 percent but is at or below 50 percent of the county area median income, for the county where the affordable housing is located, adjusted for household size.

B. By October 1, 2025, and every three years thereafter, the governing body of each locality shall prepare an inventory list of all real property within its jurisdiction to which the locality or any dependent special district within its boundaries holds fee simple title that is suitable for the development of affordable housing. The inventory list shall include the address and legal description of each such real property and specify whether the property is vacant or improved. The governing body of the locality shall review the inventory list at a public hearing and may revise it at the conclusion of the public hearing. The governing body of the locality shall adopt a resolution that includes an inventory list of such property following the public hearing. Each locality shall make the inventory list publicly available on its website to encourage potential development.

C. Should the governing body of a locality choose to dispose of a real property deemed to be suitable for the development of affordable housing, such property shall be offered for at least 180 days exclusively to eligible organizations for the purpose of developing affordable housing. Eligible organizations may obtain such property through purchase, lease, exchange, or donation in return for a recorded covenant to provide affordable housing for at least 40 years. The governing body of the locality disposing of such property may dispose of the property to an eligible organization under this section at a price that is less than fair market value, provided that the housing developed on the property is occupied primarily by individuals or by

extremely low-income households, very low-income households, or low-income households.

§ 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 ~~I~~ J of § 2.2-1156.

INTRODUCED

HB1758