

110TH CONGRESS
2^D SESSION

H. R. 7217

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30 (legislative day, SEPTEMBER 17), 2008

Received

AN ACT

To amend title 40, United States Code, to enhance authorities with regard to real property that has yet to be reported excess, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Federal Real Property
3 Disposal Enhancement Act of 2008”.

4 **SEC. 2. DUTIES OF THE GENERAL SERVICES ADMINISTRA-**
5 **TION AND EXECUTIVE AGENCIES.**

6 (a) IN GENERAL.—Section 524 of title 40, United
7 States Code, is amended to read as follows:

8 **“§ 524. Duties of the General Services Administration**
9 **and executive agencies**

10 “(a) DUTIES OF THE GENERAL SERVICES ADMINIS-

11 TRATION.—

12 “(1) GUIDANCE.—The Administrator shall
13 issue guidance for the development and implementa-
14 tion of agency real property plans. Such guidance
15 shall include recommendations on—

16 “(A) how to identify excess properties;

17 “(B) how to evaluate the costs and benefits
18 involved with disposing of real property;

19 “(C) how to prioritize disposal decisions
20 based on agency missions and anticipated fu-
21 ture need for holdings; and

22 “(D) how best to dispose of those prop-
23 erties identified as excess to the needs of the
24 agency.

25 “(2) DATABASE.—The Administrator shall es-
26 tablish and maintain a single, comprehensive, and

1 descriptive database of all Federal real property as-
2 sets under the custody and control of all executive
3 agencies, other than real property assets excluded
4 for reasons of national security. The Administrator
5 shall collect from each executive agency such de-
6 scriptive information, except for classified informa-
7 tion, as necessary in order to describe the nature,
8 use, and extent of the real property holdings of the
9 Federal government. The descriptive information for
10 each piece of real property shall include—

11 “(A) geographic location with address and
12 description;

13 “(B) total size including square footage
14 and acreage;

15 “(C) mission criticality; and

16 “(D) the level of utilization of the prop-
17 erty, including whether the real property is ex-
18 cess, surplus, underutilized, or unutilized.

19 “(3) USABILITY.—(A) The database established
20 and maintained under this section shall be accessible
21 by agencies through a searchable Web site.

22 “(B) A searchable Web site means a Web site
23 that, at a minimum, allows agencies—

24 “(i) to search and aggregate Federal real
25 property by constructed asset, facility/installa-

1 tion, agency, location, and level of utilization;
2 and

3 “(ii) to download data from any such
4 search.

5 “(C) To the extent consistent with national se-
6 curity, the database shall be accessible by the public
7 at no cost through the Web site of the General Serv-
8 ices Administration. The Administrator may with-
9 hold from public disclosure information included in
10 the database if the Administrator determines that
11 withholding such information would be in the best
12 interest of the Government or the public. At a min-
13 imum, the Administrator shall make aggregate infor-
14 mation contained in the database available to the
15 public.

16 “(D) Nothing in this paragraph requires an
17 agency to make available to the public information
18 that is exempt from disclosure pursuant to section
19 552 of title 5, United States Code (popularly known
20 as the Freedom of Information Act).

21 “(4) ANNUAL REPORT.—(A) The Administrator
22 shall submit an annual report, for each of the first
23 5 years after 2008, to the congressional committees
24 listed in subparagraph (C) based on data submitted
25 from all executive agencies, detailing executive agen-

1 cy efforts to reduce their real property assets and
2 the additional information described in subpara-
3 graph (B).

4 “(B) The report shall contain the following in-
5 formation for the year covered by the report:

6 “(i) The aggregated estimated market
7 value and number of real property assets under
8 the custody and control of all executive agen-
9 cies, set forth government-wide and by agency,
10 and for each at the constructed asset level and
11 at the facility/installation level.

12 “(ii) The aggregated estimated market
13 value and number of surplus real property as-
14 sets under the custody and control of all execu-
15 tive agencies, set forth government-wide and by
16 agency, and for each at the constructed asset
17 level and at the facility/installation level.

18 “(iii)(I) The aggregated cost for maintain-
19 ing all surplus real property under the custody
20 and control of all executive agencies, set forth
21 government-wide and by agency, and for each
22 at the constructed asset level and at the facility/
23 installation level.

24 “(II) For purposes of subclause (I), costs
25 for real properties owned by the Federal gov-

1 ernment shall include recurring maintenance
2 and repair costs, utilities, cleaning and jani-
3 torial costs, and roads and grounds expenses.

4 “(III) For purposes of subclause (I), costs
5 for real properties leased by the Federal govern-
6 ment shall include lease costs, including base
7 and operating rent and any other relevant costs
8 listed in subclause (II) not covered in the lease
9 contract.

10 “(iv) The aggregated estimated deferred
11 maintenance costs of all real property under the
12 custody and control of all executive agencies,
13 set forth government-wide and by agency, and
14 for each at the constructed asset level and at
15 the facility/installation level.

16 “(v) For each surplus real property facil-
17 ity/installation disposed of, an indication of—

18 “(I) its geographic location with ad-
19 dress and description;

20 “(II) its size, including square footage
21 and acreage;

22 “(III) the date and method of dis-
23 posal; and

24 “(IV) its estimated market value.

1 “(vi) Such other information as the Ad-
2 ministrator considers appropriate.

3 “(C) The congressional committees listed in
4 this subparagraph are as follows:

5 “(i) The Committee on Oversight and Gov-
6 ernment Reform and the Committee on Trans-
7 portation and Infrastructure of the House of
8 Representatives.

9 “(ii) The Committee on Homeland Secu-
10 rity and Governmental Affairs and the Com-
11 mittee on Environment and Public Works of the
12 Senate.

13 “(5) ASSISTANCE.—The Administrator shall as-
14 sist executive agencies in the identification and dis-
15 posal of excess real property.

16 “(b) DUTIES OF EXECUTIVE AGENCIES.—

17 “(1) IN GENERAL.—Each executive agency
18 shall—

19 “(A) maintain adequate inventory controls
20 and accountability systems for property under
21 its control;

22 “(B) continuously survey property under
23 its control to identify excess property;

24 “(C) promptly report excess property to
25 the Administrator;

1 “(D) perform the care and handling of ex-
2 cess property; and

3 “(E) transfer or dispose of excess property
4 as promptly as possible in accordance with au-
5 thority delegated and regulations prescribed by
6 the Administrator.

7 “(2) SPECIFIC REQUIREMENTS WITH RESPECT
8 TO REAL PROPERTY.—With respect to real property,
9 each executive agency shall—

10 “(A) develop and implement a real prop-
11 erty plan in order to identify properties to de-
12 clare as excess using the guidance issued under
13 subsection (a)(1);

14 “(B) identify and categorize all real prop-
15 erty owned, leased, or otherwise managed by
16 the agency;

17 “(C) establish adequate goals and incen-
18 tives that lead the agency to reduce excess real
19 property in its inventory;

20 “(D) when appropriate, use the authorities
21 in section 572(a)(2)(B) of this title in order to
22 identify and prepare real property to be re-
23 ported as excess.

24 “(3) ADDITIONAL REQUIREMENTS.—Each exec-
25 utive agency, as far as practicable, shall—

1 clause (iv), the Administrator may obligate an
2 amount to pay the direct and indirect costs re-
3 lated to identifying and preparing properties to
4 be reported excess by another agency.

5 “(ii) The General Services Administration
6 shall be reimbursed from the proceeds of the
7 sale of such properties for such costs.

8 “(iii) Net proceeds shall be dispersed pur-
9 suant to section 571 of this title.

10 “(iv) The authority under clause (i) to ob-
11 ligate funds to prepare properties to be reported
12 excess does not include the authority to convey
13 such properties by use, sale, lease, exchange, or
14 otherwise, including through leaseback arrange-
15 ments or service agreements.

16 “(v) Nothing in this subparagraph is in-
17 tended to affect subparagraph (D).”.

18 **SEC. 4. ENHANCED AUTHORITIES WITH REGARD TO RE-**

19 **VERTED REAL PROPERTY.**

20 (a) **AUTHORITY TO PAY EXPENSES RELATED TO RE-**
21 **VERTED REAL PROPERTY.**—Section 572(a)(2)(A) of title
22 40, United States Code, is amended by adding at the end
23 the following:

1 “(iv) The direct and indirect costs as-
2 sociated with the reversion, custody, and
3 disposal of reverted real property.”.

4 (b) REQUIREMENTS RELATED TO SALES OF RE-
5 VERTED PROPERTY UNDER SECTION 550.—Section
6 550(b)(1) of title 40, United States Code, is amended—

7 (1) by inserting “(A)” after “(1) IN GEN-
8 ERAL.—”; and

9 (2) by adding at the end the following: “If the
10 official, in consultation with the Administrator, rec-
11 ommends reversion of the property, the Adminis-
12 trator shall take control of such property, and, sub-
13 ject to subparagraph (B), sell it at or above ap-
14 praised fair market value for cash and not by lease,
15 exchange, leaseback arrangements, or service agree-
16 ments.

17 “(B) Prior to sale, the Administrator shall
18 make such property available to State and local gov-
19 ernments and certain non-profit institutions or orga-
20 nizations pursuant to this section and sections 553
21 and 554 of this title.”.

22 (c) REQUIREMENTS RELATED TO SALES OF RE-
23 VERTED PROPERTY UNDER SECTION 553.—Section
24 553(e) of title 40, United States Code, is amended—

1 (1) by inserting “(1)” after “THIS SECTION.—
2 ”; and

3 (2) by adding at the end the following: “If the
4 Administrator determines that reversion of the prop-
5 erty is necessary to enforce compliance with the
6 terms of the conveyance, the Administrator shall
7 take control of such property and, subject to para-
8 graph (2), sell it at or above appraised fair market
9 value for cash and not by lease, exchange, leaseback
10 arrangements, or service agreements.

11 “(2) Prior to sale, the Administrator shall make such
12 property available to State and local governments and cer-
13 tain non-profit institutions or organizations pursuant to
14 this section and sections 550 and 554 of this title.”.

15 (d) REQUIREMENTS RELATED TO SALES OF RE-
16 VERTED PROPERTY UNDER SECTION 554.—Section
17 554(f) of title 40, United States Code, is amended—

18 (1) by inserting “(1)” after “THIS SECTION.—
19 ”; and

20 (2) by adding at the end the following: “If the
21 Secretary, in consultation with the Administrator,
22 recommends reversion of the property, the Adminis-
23 trator shall take control of such property and, sub-
24 ject to paragraph (2), sell it at or above appraised
25 fair market value for cash and not by lease, ex-

1 change, leaseback arrangements, or service agree-
2 ments.

3 “(b) Prior to sale, the Administrator shall make such
4 property available to State and local governments and cer-
5 tain non-profit institutions or organizations pursuant to
6 this section and sections 550 and 553 of this title.”.

7 **SEC. 5. AGENCY RETENTION OF PROCEEDS.**

8 The text of section 571 of title 40, United States
9 Code, is amended to read as follows:

10 “(a) PROCEEDS FROM TRANSFER OR SALE OF REAL
11 PROPERTY.—Net proceeds described in subsection (d)
12 shall be deposited into the appropriate real property ac-
13 count of the agency that had custody and accountability
14 for the real property at the time the real property is deter-
15 mined to be excess. Such funds shall be expended only as
16 authorized in annual appropriations Acts and only for ac-
17 tivities as described in section 524(b) of this title and dis-
18 posal activities, including paying costs incurred by the
19 General Services Administration for any disposal-related
20 activity authorized by this title. Proceeds may also be ex-
21 pended by the agency for maintenance and repairs of the
22 agency’s real property necessary for its disposal or for the
23 repair or alteration of the agency’s other real property,
24 provided that proceeds shall not be authorized for expendi-
25 ture in an appropriations Act for any repair or alteration

1 project that is subject to the requirements of section 3307
2 of this title without a prospectus submitted by the General
3 Services Administration and approved by the Committee
4 on Transportation and Infrastructure of the House of
5 Representatives and the Committee on Environment and
6 Public Works of the Senate.

7 “(b) EFFECT ON OTHER SECTIONS.—Nothing in this
8 section is intended to affect section 572(b), 573, or 574
9 of this title.

10 “(c) DISPOSAL AGENCY FOR REVERTED PROP-
11 ERTY.—For the purposes of this section, for any real
12 property that reverts to the United States under sections
13 550, 553, and 554 of this title, the General Services Ad-
14 ministration, as the disposal agency, shall be treated as
15 the agency with custody and accountability for the real
16 property at the time the real property is determined to
17 be excess.

18 “(d) NET PROCEEDS.—The net proceeds referred to
19 in subsection (a) are proceeds under this chapter, less ex-
20 penses of the transfer or disposition as provided in section
21 572(a) of this title, from a—

22 “(1) transfer of excess real property to a Fed-
23 eral agency for agency use; or

24 “(2) sale, lease, or other disposition of surplus
25 real property.

1 “(e) PROCEEDS FROM TRANSFER OR SALE OF PER-
2 SONAL PROPERTY.—(1) Except as otherwise provided in
3 this subchapter, proceeds described in paragraph (2) shall
4 be deposited in the Treasury as miscellaneous receipts.

5 “(2) The proceeds described in this paragraph are
6 proceeds under this chapter from—

7 “(A) a transfer of excess personal property to
8 a Federal agency for agency use; or

9 “(B) a sale, lease, or other disposition of sur-
10 plus personal property.

11 “(3) Subject to regulations under this subtitle, the
12 expenses of the sale of personal property may be paid from
13 the proceeds of sale so that only the net proceeds are de-
14 posited in the Treasury. This paragraph applies whether
15 proceeds are deposited as miscellaneous receipts or to the
16 credit of an appropriation as authorized by law.”.

17 **SEC. 6. DEMONSTRATION AUTHORITY.**

18 (a) IN GENERAL.—Subchapter II of chapter 5 of title
19 40, United States Code, is amended by adding at the end
20 the following new section:

21 **“§ 530. Demonstration program of inapplicability of**
22 **certain requirements of law**

23 “(a) AUTHORITY.—Effective for fiscal years 2009
24 and 2010, the requirements of section 501(a) of the

1 McKinney Vento Homeless Assistance Act (42 U.S.C.
2 11411(a)) shall not apply to eligible properties.

3 “(b) ELIGIBLE PROPERTIES.—A property is eligible
4 for purposes of subsection (a) if it meets both of the fol-
5 lowing requirements:

6 “(1) The property is selected for demolition by
7 an agency and is a Federal building or other Federal
8 real property located on land not determined to be
9 excess, for which there is an ongoing Federal need,
10 and not to be used in any lease, exchange, leaseback
11 arrangement, or service agreement.

12 “(2) The property is—

13 “(A) located in an area to which the gen-
14 eral public is denied access in the interest of
15 national security and where alternative access
16 cannot be provided for the public without com-
17 promising national security; or

18 “(B) the property is—

19 “(i) uninhabitable;

20 “(ii) not a housing unit; and

21 “(iii) selected for demolition by an
22 agency because either—

23 “(I) the demolition is necessary
24 to further an identified Federal need

1 for which funds have been authorized
2 and appropriated; or

3 “(II) the property poses risk to
4 human health and safety or has be-
5 come an attractive nuisance.

6 “(c) LIMITATIONS.—

7 “(1) No property of the Department of Vet-
8 erans Affairs may be considered an eligible property
9 for purposes of subsection (a).

10 “(2) With respect to an eligible property de-
11 scribed in subsection (b), the land underlying the
12 property remains subject to all public benefit re-
13 quirements and notifications for disposal.

14 “(d) NOTIFICATION TO CONGRESS.—(1) A list of
15 each eligible property described in subsection (b) that is
16 demolished or scheduled for demolition, by date of demoli-
17 tion or projected demolition date, shall be sent to the con-
18 gressional committees listed in paragraph (2) and pub-
19 lished on the Web site of the General Services Administra-
20 tion biannually beginning 6 months after the date of the
21 enactment of this section.

22 “(2) The congressional committees listed in this para-
23 graph are as follows:

1 “(A) The Committee on Oversight and Govern-
2 ment Reform and the Committee on Transportation
3 and Infrastructure of the House of Representatives.

4 “(B) The Committee on Homeland Security
5 and Governmental Affairs and the Committee on
6 Environment and Public Works of the Senate.

7 “(e) RELATIONSHIP TO OTHER PROVISIONS OF
8 LAW.—Nothing in this section may be construed as inter-
9 fering with the requirement for the submission of a pro-
10 spectus to Congress as established by section 3307 of this
11 title or for all demolitions to be carried out pursuant to
12 section 527 of this title.”.

13 (b) CLERICAL AMENDMENT.—The table of sections
14 at the beginning of chapter 5 of title 40, United States
15 Code, is amended by inserting after the item relating to
16 section 529 the following new item:

“530. Demonstration program of inapplicability of certain requirements of law.”.

Passed the House of Representatives September 29,
2008.

Attest:

LORRAINE C. MILLER,

Clerk.