

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5626

To provide uniform authority for executive departments to use funds from the disposal of Federal real property and to establish a pilot program in certain agencies for the use of public-private agreements to enhance the efficiency of Federal real property.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 2014

Ms. MICHELLE LUJAN GRISHAM of New Mexico introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To provide uniform authority for executive departments to use funds from the disposal of Federal real property and to establish a pilot program in certain agencies for the use of public-private agreements to enhance the efficiency of Federal real property.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Federal Property Low  
5       Hanging Fruit Act”.

1 **SEC. 2. UNIFORM AUTHORITY FOR EXECUTIVE DEPART-**  
2 **MENTS TO USE FUNDS FROM DISPOSAL OF**  
3 **FEDERAL REAL PROPERTY.**

4 (a) **AUTHORITY TO CONVEY.**—The head of each ex-  
5 ecutive department may—

6 (1) convey, by sale, lease, exchange, or other-  
7 wise, including through leaseback arrangements, real  
8 and related property, or interests therein, under  
9 their ownership and control; and

10 (2) retain the net proceeds of such dispositions  
11 in an account within the general fund of the United  
12 States Treasury established for purposes of this sec-  
13 tion, to be used in accordance with subsection (b).

14 (b) **USE OF FUNDS.**—For purposes of subsection (a),  
15 the net proceeds of such dispositions retained in the ac-  
16 count of an executive department pursuant to that sub-  
17 section shall be available to the head of the executive de-  
18 partment, until expended and without further appropria-  
19 tion and in compliance with other applicable provisions of  
20 law, to pay any necessary and incidental costs incurred  
21 by such head in connection with Federal property manage-  
22 ment activities of the executive department, including ac-  
23 quisition, improvements, maintenance, reconstruction, or  
24 construction needs. In conducting these activities, an exec-  
25 utive department may enter into agreements with the Gen-  
26 eral Services Administration for assistance.

1 (c) REGULATIONS.—The Director of the Office of  
2 Management and Budget, in consultation with the Admin-  
3 istrator of General Services and the Secretary of Defense,  
4 shall promulgate regulations to carry out this section.

5 (d) DEFINITIONS.—In this section:

6 (1) NET PROCEEDS.—The term “net proceeds”,  
7 with respect to a disposition of property or interests  
8 under this section, means the rental, sales, and other  
9 sums received less the costs of the disposition.

10 (2) EXECUTIVE DEPARTMENT.—The term “ex-  
11 ecutive department” means an Executive department  
12 listed in section 101 of title 5, United States Code.

13 **SEC. 3. PUBLIC-PRIVATE AGREEMENT PILOT PROGRAM.**

14 (a) PLAN FOR ENTERING INTO PUBLIC-PRIVATE  
15 AGREEMENTS.—

16 (1) IN GENERAL.—The head of a covered agen-  
17 cy shall develop and carry out a plan to enter into  
18 one or more agreements with a nongovernmental  
19 person, for the purposes described in paragraph (2).

20 (2) PURPOSES.—The purposes of any agree-  
21 ment entered into under paragraph (1) shall be—

22 (A) to lease Federal real properties that  
23 are underutilized or excess, under the terms of  
24 subsection (c); and

1 (B) to develop, rehabilitate, or renovate fa-  
2 cilities on such leased properties for the benefit  
3 of the covered agency.

4 (3) NUMBER OF PROPERTIES.—A total of at  
5 least 5, and not more than 10, Federal real prop-  
6 erties shall be leased under agreements entered into  
7 under paragraph (1).

8 (b) AGREEMENT TERMS.—

9 (1) IN GENERAL.—Each agreement entered into  
10 pursuant to this section—

11 (A) shall have as its primary purpose the  
12 enhancement of the functional and economic ef-  
13 ficiency of Federal real property;

14 (B) shall be negotiated pursuant to such  
15 procedures as the head of the covered agency  
16 concerned considers necessary to promote com-  
17 petition and protect the public interest;

18 (C) shall provide a lease option to the  
19 United States to occupy space in the facilities  
20 acquired, constructed, or rehabilitated under  
21 the agreement, but shall not guarantee occu-  
22 pancy by the United States;

23 (D) shall describe the consideration, du-  
24 ties, and responsibilities for which the United  
25 States and the nongovernmental person are re-

1 responsible and may provide for the alteration, re-  
2 pair, or improvement of the real property as  
3 part or all of the consideration of the non-  
4 governmental person, notwithstanding any pro-  
5 vision of law, including section 1302 of title 40,  
6 United States Code;

7 (E) shall provide—

8 (i) that the United States shall not be  
9 liable for any actions, debts, or liability of  
10 the nongovernmental person; and

11 (ii) that no person is authorized by  
12 the agreement to execute any instrument  
13 or document creating or evidencing any in-  
14 debtedness unless such instrument or doc-  
15 ument specifically disclaims any liability of  
16 the United States under the instrument or  
17 document; and

18 (F) shall provide that the leasehold inter-  
19 ests of the United States are senior to that of  
20 any lender to the nongovernmental person.

21 (2) ABILITY TO PLEDGE AS COLLATERAL.—

22 Subparagraph (F) shall not impair the ability of the  
23 nongovernmental person to pledge as collateral its  
24 leasehold interest under a lease with the United

1 States entered into pursuant to the terms of sub-  
2 section (c).

3 (c) LEASE OF REAL PROPERTY.—

4 (1) AUTHORITY.—Notwithstanding any other  
5 provision of law, including sections 582 and 583 of  
6 title 40, United States Code, the head of a covered  
7 agency may lease real property under an agreement  
8 under subsection (a) to the nongovernmental person  
9 that is party to the agreement.

10 (2) PERIOD OF LEASE.—A lease under this sub-  
11 section may be for such period as the head of the  
12 covered agency determines appropriate.

13 (3) RELATIONSHIP TO HOMELESS ASSISTANCE  
14 ACT.—Real property leased under this subsection  
15 shall not be considered unutilized or underutilized  
16 for purposes of section 501 of the Stewart B.  
17 McKinney Homeless Assistance Act (42 U.S.C.  
18 11411) and may be leased under this subsection  
19 without regard to any other provision of law.

20 (d) SERVICES.—Notwithstanding any other provision  
21 of law, the head of a covered agency, or his or her des-  
22 ignee, may provide services under an agreement under  
23 subsection (a) to the nongovernmental person that is party  
24 to the agreement on such terms as the head considers ap-  
25 propriate.

1 (e) USE AND DEPOSIT OF REVENUES.—

2 (1) USE OF REVENUES.—Notwithstanding any  
3 other provision of law, the head of a covered agency  
4 may retain and use any revenues derived from  
5 agreements entered into under this section for Fed-  
6 eral property management activities of the covered  
7 agency, including acquisition, improvements, mainte-  
8 nance, reconstruction, or construction needs.

9 (2) DEPOSIT OF REVENUES.—Revenues re-  
10 ceived by the head of a covered agency from an  
11 agreement under subsection (a) shall be deposited—

12 (A) in the case of the General Services Ad-  
13 ministration, into the fund created by section  
14 592 of title 40, United States Code; and

15 (B) in the case of any other covered agen-  
16 cy, into the account of the agency established  
17 under section 2(a).

18 (f) PLAN.—

19 (1) MATTERS COVERED.—The plan of a covered  
20 agency required under subsection (a) shall—

21 (A) identify the Federal real properties  
22 that the head of the covered agency proposes to  
23 make available under the agreement or agree-  
24 ments to be entered into with one or more non-  
25 governmental persons; and

1           (B) include performance measures by  
2           which the proposed project or projects will be  
3           measured.

4           (2) CONSULTATION WITH COUNCIL.—In devel-  
5           oping the plan required under subsection (a), the  
6           head of a covered agency shall consult with the Fed-  
7           eral Real Property Council.

8           (g) SUBMISSIONS TO CONGRESS OF PLAN AND  
9           AGREEMENTS.—

10           (1) SUBMISSION OF PLAN WITHIN 12  
11           MONTHS.—The head of a covered agency shall sub-  
12           mit to Congress the plan required by subsection (a)  
13           not later than 12 months after the date of the enact-  
14           ment of this Act.

15           (2) SUBMISSION OF EACH AGREEMENT TO CON-  
16           GRESS BEFORE IMPLEMENTATION.—The head of a  
17           covered agency shall submit to Congress each agree-  
18           ment entered into under subsection (a) and may not  
19           implement any such agreement until at least 30 days  
20           has expired after the date of submission to Con-  
21           gress. The submission to Congress under this para-  
22           graph shall also include—

23                   (A) an explanation of the agreement;



1 (B) the name, resources, and qualifications  
2 of the nongovernmental person or persons that  
3 are party to the agreement;

4 (C) the name of any other nongovern-  
5 mental person that submitted a proposal for the  
6 property that is the subject of the agreement;

7 (D) the factors in support of the proposed  
8 project or projects covered by the agreement;  
9 and

10 (E) the projected economic performance,  
11 including expenditures and receipts, arising  
12 from the agreement.

13 (3) SUBMISSION OF ALL AGREEMENTS WITHIN  
14 3 YEARS.—The head of a covered agency shall sub-  
15 mit to Congress all agreements to be entered into  
16 under the plan not later than 3 years after the date  
17 of the enactment of this Act.

18 (h) PROJECTED ECONOMIC PERFORMANCE.—The  
19 head of a covered agency shall describe, in the budget sub-  
20 mitted by the President pursuant to section 1105 of title  
21 31, United States Code, for a fiscal year, the projected  
22 economic performance, including expenditures and re-  
23 ceipts, arising from each agreement entered into pursuant  
24 this section and in effect during such fiscal year.

25 (i) DEFINITIONS.—In this section:

1           (1) COVERED AGENCY.—The term “covered  
2 agency” means each of the following:

3                   (A) The Department of Defense.

4                   (B) The Department of Agriculture.

5                   (C) The Department of Energy.

6                   (D) The General Services Administration.

7           (2) HEAD OF A COVERED AGENCY.—The term  
8 “head of a covered agency” means each of the fol-  
9 lowing:

10                   (A) The Secretary of Defense.

11                   (B) The Secretary of Agriculture.

12                   (C) The Secretary of Energy.

13                   (D) The Administrator of General Serv-  
14 ices.

15           (3) FEDERAL REAL PROPERTY.—The term  
16 “Federal real property” means property, as that  
17 term is defined in section 102(9) of title 40, United  
18 States Code.

19           (4) EXCESS.—The term “excess”, with respect  
20 to Federal real property, means excess property as  
21 defined in section 102(3) of title 40, United States  
22 Code.

23           (5) NONGOVERNMENTAL PERSON.—The term  
24 “nongovernmental person” means a limited liability  
25 company, limited partnership, corporation, business

1 trust, nonprofit entity, or such other form of entity  
2 as the head of a covered agency may designate.

3 (6) EXECUTIVE AGENCY.—The term “executive  
4 agency” has the meaning provided in section 102(4)  
5 of title 40, United States Code.

6 (j) REPORTS BY GOVERNMENT ACCOUNTABILITY OF-  
7 FICE.—The Comptroller General of the United States  
8 shall submit to Congress two reports on the effectiveness  
9 of the public-private agreement pilot program under this  
10 section. The first report shall be submitted not later than  
11 5 years after the date of the enactment of this section,  
12 and the second report shall be submitted not later than  
13 10 years after such date of enactment. Each report shall  
14 include specific recommendations on how best to use pub-  
15 lic-private agreements in all Federal agencies to improve  
16 Federal real property management.

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