

109TH CONGRESS
1ST SESSION

H. R. 3134

To amend title 40, United States Code, to require the Federal Real Property Council to carry out a pilot program for the expeditious disposal of underutilized Federal real property, and to improve the economy and efficiency of Federal real property.

IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 2005

Mr. TOM DAVIS of Virginia (for himself and Mr. NUSSLE) introduced the following bill; which was referred to the Committee on Government Reform

A BILL

To amend title 40, United States Code, to require the Federal Real Property Council to carry out a pilot program for the expeditious disposal of underutilized Federal real property, and to improve the economy and 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 Real Property
5 Disposal Pilot Program and Management Improvement
6 Act of 2005”.

1 **SEC. 2. TABLE OF CONTENTS.**

2 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—PILOT PROGRAM FOR EXPEDITED DISPOSAL OF
FEDERAL REAL PROPERTY

Sec. 101. Federal Real Property Disposal Pilot Program.

TITLE II—IMPROVEMENTS TO ECONOMY AND EFFICIENCY OF
FEDERAL REAL PROPERTY

Sec. 201. Improvements to Federal real property management.

TITLE III—GENERAL PROVISIONS

Sec. 301. Definition of underutilized real property.

3 **TITLE I—PILOT PROGRAM FOR**
4 **EXPEDITED DISPOSAL OF**
5 **FEDERAL REAL PROPERTY**

6 **SEC. 101. FEDERAL REAL PROPERTY DISPOSAL PILOT PRO-**
7 **GRAM.**

8 (a) IN GENERAL.—Chapter 5 of subtitle I of title 40,
9 United States Code, is amended by adding at the end the
10 following new subchapter:

11 “SUBCHAPTER VII—EXPEDITED DISPOSAL OF
12 REAL PROPERTY

13 **“§ 621. Requirement for pilot program**

14 “(a) IN GENERAL.—The Federal Real Property
15 Council shall conduct a pilot program, to be known as the
16 ‘Federal Real Property Disposal Pilot Program’, under
17 which excess property, surplus property, or underutilized
18 real property shall be disposed of in accordance with this
19 subchapter.

1 **“§ 622. Selection of real properties**

2 “The Federal Real Property Council shall select at
3 least 10 real properties per year owned by executive agen-
4 cies for participation in the pilot program.

5 **“§ 623. Expedited disposal requirements**

6 “(a) REQUIREMENT TO CONDUCT EXPEDITED DIS-
7 POSALS.—

8 “(1) IN GENERAL.—Under the pilot program,
9 the Federal Real Property Council shall direct exec-
10 utive agencies to conduct expedited disposals of the
11 real properties selected pursuant to section 622 of
12 this title.

13 “(2) EXPEDITED DISPOSAL DEFINED.—For
14 purposes of the pilot program, an expedited disposal
15 of a real property is a sale of real property for cash
16 that is conducted pursuant to the requirements of
17 section 545 of this title and that is not subject to—

18 “(A) sections 550 and 553 of this title; or

19 “(B) section 501 of the McKinney-Vento
20 Homeless Assistance Act (42 U.S.C. 11411).

21 “(b) FAIR MARKET VALUE.—A real property may be
22 sold under the pilot program only if the Federal Govern-
23 ment receives not less than 90 percent of the fair market
24 value for the sale, determined in accordance with a method
25 identified by the Council.

1 “(c) MONETARY PROCEEDS; PROHIBITION ON
2 TRANSACTIONS OTHER THAN SALES FOR CASH.—A real
3 property may be sold under the pilot program only if the
4 property will generate monetary proceeds to the Federal
5 Government. A disposal of real property under the pilot
6 program may not include any exchange, trade, transfer,
7 acquisition of like-kind property, or other non-cash trans-
8 action as part of the disposal.

9 **“§ 624. Special rules for deposit and use of proceeds**
10 **from expedited disposals**

11 “(a) DISTRIBUTION REQUIREMENTS.—With respect
12 to the disposal of a real property under the pilot program,
13 the monetary proceeds from the disposal shall be distrib-
14 uted as follows:

15 “(1) 80 percent shall be deposited into the
16 Treasury as miscellaneous receipts.

17 “(2) 10 percent shall be deposited into an ac-
18 count in the Treasury for use for any program or
19 purpose previously authorized by law by any execu-
20 tive agency determined by the Federal Real Property
21 Council to be affected by the disposal, to remain
22 available until expended without further appropria-
23 tion or authorization.

24 “(3) 5 percent shall be deposited into an ac-
25 count in the Treasury for use by the Federal Real

1 Property Council to disburse to local taxing jurisdic-
2 tions affected by the disposal. Funds not disbursed
3 within 90 days after the disposal of the property
4 shall be deposited into the Treasury as miscellaneous
5 receipts.

6 “(4) 5 percent shall be deposited into an ac-
7 count in the Treasury for use by the Federal Real
8 Property Council for such purposes as the Council
9 considers appropriate, including for further study
10 and other costs associated with the disposition of
11 real properties.

12 “(b) LIMITATION.—Proceeds from the disposal of a
13 real property under the pilot program shall not be subject
14 to subchapter IV of this chapter.

15 **“§ 625. Administrative provisions**

16 “(a) USE OF AGENCY FUNDS FOR COSTS OF DIS-
17 POSALS.—Subject to subsection (b), an executive agency
18 may use any amounts otherwise available to the agency
19 for paying the costs to the agency of disposing of real
20 property under the pilot program, including the costs of
21 any of the following:

22 “(1) Site remediation, restoration, or other en-
23 vironmental services.

24 “(2) Relocation of affected tenants and other
25 occupants.

1 “(3) Advertising and marketing.

2 “(4) Community outreach.

3 “(5) Surveying.

4 “(6) Appraisal.

5 “(7) Brokerage.

6 “(8) Historic preservation services.

7 “(9) Title insurance.

8 “(10) Due diligence.

9 “(11) Document notarization and recording
10 services.

11 “(12) Prepayment of up to one year’s assessed
12 property taxes.

13 “(13) Any other costs, whether direct or indi-
14 rect, associated with the sale of the property.

15 “(b) LIMITATION ON AMOUNT USED FOR COSTS OF
16 DISPOSALS.—With respect to the disposal of a real prop-
17 erty by an executive agency, the agency may not use
18 amounts, as authorized under subsection (a), for costs as-
19 sociated with the disposal of the property in any amount
20 exceeding 25 percent of the fair market value of the prop-
21 erty.

22 **“§ 626. Termination of pilot program**

23 “The Federal Real Property Disposal Pilot Program
24 shall terminate 5 years after the date of the enactment
25 of this subchapter.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of subtitle I of title 40, United States Code, is amended by inserting after the item relating to section 611 the following:

“SUBCHAPTER VII—EXPEDITED DISPOSAL OF REAL PROPERTY

“Sec. 621. Requirement for pilot program.

“Sec. 622. Selection of real properties.

“Sec. 623. Expedited disposal requirements.

“Sec. 624. Special rules for deposit and use of proceeds from expedited disposals.

“Sec. 625. Administrative provisions.

“Sec. 626. Termination of pilot program.”.

**TITLE II—IMPROVEMENTS TO
ECONOMY AND EFFICIENCY
OF FEDERAL REAL PROP-
ERTY**

**SEC. 201. IMPROVEMENTS TO FEDERAL REAL PROPERTY
MANAGEMENT.**

(a) IN GENERAL.—Chapter 5 of subtitle I of title 40, United States Code, is amended by adding at the end the following new subchapter:

“SUBCHAPTER VIII—PROPERTY MANAGEMENT
GENERALLY

“§ 631. Senior Real Property Officers

“(a) ESTABLISHMENT OF AGENCY SENIOR REAL PROPERTY OFFICER.—The head of each agency listed in paragraphs (1) and (2) of section 901(b) of title 31 shall designate among their senior management officials a Senior Real Property Officer. Such officer shall have the edu-

1 cation, training, and experience required to administer the
2 necessary functions of the position for the agency con-
3 cerned.

4 “(b) AGENCY ASSET MANAGEMENT PLAN RESPON-
5 SIBILITIES.—The Senior Real Property Officer of an
6 agency shall develop and implement an agency asset man-
7 agement planning process that meets the form, content,
8 and other requirements established by the Federal Real
9 Property Council established under section 632 of this
10 title. The initial agency asset management plan shall be
11 submitted to the Office of Management and Budget on
12 a date determined by the Director of the Office of Man-
13 agement and Budget. In developing the plan, the Senior
14 Real Property Officer shall—

15 “(1) identify and categorize all real property
16 owned, leased, or otherwise managed by the agency,
17 including, where applicable, those properties outside
18 the United States in which the lease agreements and
19 arrangements reflect the host country currency or
20 involve alternative lease plans or rental agreements;

21 “(2) identify and pursue goals, with appropriate
22 deadlines, consistent with and supportive of the
23 agency’s asset management plan and measure
24 progress against such goals; and

1 “(3) identify any other information and pursue
2 any other actions necessary to the appropriate devel-
3 opment and implementation of the agency asset
4 management plan.

5 “(c) MONITORING OF ASSETS.—The Senior Real
6 Property Officer of an agency shall be responsible, on an
7 ongoing basis, for monitoring the real property assets of
8 the agency so that agency assets are managed in a manner
9 that is—

10 “(1) consistent with, and supportive of, the
11 goals and objectives set forth in the agency’s overall
12 strategic plan under section 306 of title 5;

13 “(2) consistent with the real property asset
14 management principles developed by the Federal
15 Real Property Council established under section 632
16 of this title; and

17 “(3) reflected in the agency asset management
18 plan.

19 “(d) PROVISION OF INFORMATION.—The Senior Real
20 Property Officer of an agency shall, on an annual basis,
21 provide to the Director of the Office of Management and
22 Budget and the Administrator of General Services the fol-
23 lowing:

24 “(1) Information that lists and describes real
25 property assets under the jurisdiction, custody, or

1 control of that agency, except for classified informa-
2 tion.

3 “(2) Any other relevant information the Direc-
4 tor of the Office of Management and Budget or the
5 Administrator of General Services may request for
6 inclusion in the inventory database established under
7 section 634 of this title.

8 **“§ 632. Federal Real Property Council**

9 “(a) ESTABLISHMENT OF COUNCIL.—There shall be
10 a Federal Real Property Council, within the Office of
11 Management and Budget for administrative purposes, to
12 develop guidance for, and facilitate the success of, each
13 agency’s asset management plan. The Council shall be
14 composed exclusively of all agency Senior Real Property
15 Officers, the Controller of the Office of Management and
16 Budget, the Administrator of General Services, and any
17 other full-time or permanent part-time Federal officials or
18 employees as deemed necessary by the Chairman of the
19 Council. The Deputy Director for Management of the Of-
20 fice of Management and Budget shall also be a member
21 and shall chair the Council. The Office of Management
22 and Budget shall provide funding and administrative sup-
23 port for the Council, as appropriate.

24 “(b) AGENCY ASSET MANAGEMENT PLANS.—

1 “(1) IN GENERAL.—The Council shall provide
2 guidance to the Senior Real Property Officers in the
3 development and implementation of the agency asset
4 management plans.

5 “(2) PERFORMANCE MEASURES.— The Council
6 shall work with the Administrator of General Serv-
7 ices to establish appropriate performance measures
8 to determine the effectiveness of Federal real prop-
9 erty management. Such performance measures shall
10 include, but are not limited to, evaluating the costs
11 and benefits involved with disposing of Federal real
12 properties at particular agencies. Specifically, the
13 Council shall consider, as appropriate, the following
14 performance measures:

15 “(A) The cost and time required to dispose
16 of Federal real property assets and the financial
17 recovery of the Federal investment resulting
18 from the disposal.

19 “(B) Changes in the amounts of vacant
20 Federal space.

21 “(C) The enhancement of executive agency
22 productivity through an improved working envi-
23 ronment.

24 “(3) DESIGN OF PERFORMANCE MEASURES.—
25 The performance measures shall be designed to en-

1 able the heads of executive agencies to track
 2 progress in the achievement of Government-wide
 3 property management objectives, as well as allow for
 4 comparing the performance of executive agencies
 5 against industry and other public sector agencies.

6 “(c) BEST PRACTICES CLEARINGHOUSE.—The Coun-
 7 cil shall serve as a clearinghouse for executive agencies
 8 for best practices in evaluating actual progress in the im-
 9 plementation of real property enhancements. The Council
 10 shall also work in conjunction with the President’s Man-
 11 agement Council to assist the efforts of the Senior Real
 12 Property Officials and the implementation of agency asset
 13 management plans.

14 “(d) FUND.—The Council may use amounts in the
 15 fund referred to in section 624(4) of this title for such
 16 purposes as the Council considers appropriate for carrying
 17 out its responsibilities.

18 “(e) MEETINGS.—The Council shall hold meetings
 19 not less often than once a quarter each fiscal year.

20 **“§ 633. Inventory database**

21 “(a) DATABASE.—The Administrator of General
 22 Services (in this section referred to as the ‘Adminis-
 23 trator’), in consultation with the Federal Real Property
 24 Council, shall establish and maintain a single, comprehen-
 25 sive, and descriptive database of all real property under

1 the custody and control of all executive agencies, other
2 than real property excluded for reasons of national secu-
3 rity. The Administrator shall collect from each executive
4 branch agency such descriptive information, except for
5 classified information, as the Administrator considers will
6 best describe the nature, use, and extent of the real prop-
7 erty holdings of the Federal Government.

8 “(b) STANDARDS.—The Administrator, in consulta-
9 tion with the Council, may establish data and other infor-
10 mation technology standards for use by executive agencies
11 in developing or upgrading executive agency real property
12 information systems in order to facilitate reporting on a
13 uniform basis. Those agencies with particular information
14 technology standards and systems in place and in use shall
15 be allowed to continue with such use to the extent that
16 they are compatible with the standards issued by the Ad-
17 ministrator.

18 “(c) JURISDICTION OF ADMINISTRATOR.—Except for
19 the purpose of maintaining the database required under
20 this section, nothing in this section authorizes the Admin-
21 istrator to assume jurisdiction over the acquisition, man-
22 agement, or disposal of real property not subject to this
23 chapter.

24 “(d) LIST OF UNDERUTILIZED FEDERAL REAL
25 PROPERTIES.—

1 “(1) REQUIREMENT.—The head of each execu-
2 tive agency shall—

3 “(A) identify all underutilized properties
4 under the custody and control of that agency;
5 and

6 “(B) submit a list describing the underuti-
7 lized properties to the Federal Real Property
8 Council.

9 “(2) CONTENTS OF LIST.—The list submitted
10 under paragraph (1)(B) shall include information
11 about the location, nature, and use of the property,
12 and may be included in the database required under
13 this section.

14 “(3) USE OF LIST.—Each executive agency
15 shall use the list submitted for the agency under this
16 subsection to help in determining whether a property
17 is excess property under this chapter.”.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 at the beginning of chapter 5 of subtitle I of title 40,
20 United States Code, is amended by inserting after the
21 item relating to section 626, as added by title I, the fol-
22 lowing:

“SUBCHAPTER VIII—PROPERTY MANAGEMENT GENERALLY

“Sec. 631. Senior Real Property Officers.

“Sec. 632. Federal Real Property Council.

“Sec. 633. Inventory database.”.

TITLE III—GENERAL PROVISIONS

SEC. 301. DEFINITION OF UNDERUTILIZED REAL PROPERTY.

Section 102 of title 40, United States Code, is amended by adding at the end the following new paragraph:

“(11) The term ‘underutilized real property’ means real property under the control of a Federal agency, with or without improvements, that meets 1 or more of the following criteria:

“(A) The property is occupied by 10 or fewer employees of the Federal Government or a contractor of the Federal Government.

“(B) 50 percent or less of the building space is occupied by the executive agency.

“(C) The property has improvements that occupy 25 percent or less of the land.

“(D) The property is unutilized, meaning it is vacant or not occupied for current program purposes.”.

○