

Calendar No. 631

110TH CONGRESS
2D SESSION**S. 1667****[Report No. 110–279]**

To establish a pilot program for the expedited disposal of Federal real property.

IN THE SENATE OF THE UNITED STATES

JUNE 20, 2007

Mr. CARPER (for himself and Mr. COBURN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

APRIL 7, 2008

Reported by Mr. LIEBERMAN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]**A BILL**

To establish a pilot program for the expedited disposal 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,*

1 **SECTION 1. FEDERAL REAL PROPERTY DISPOSAL PILOT**
 2 **PROGRAM.**

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

6 “SUBCHAPTER VII—EXPEDITED DISPOSAL OF
 7 REAL PROPERTY

8 “§ 621. **Pilot program**

9 “(a) The Director of the Office of Management and
 10 Budget and Budget (in this subchapter referred to as the
 11 ‘Director’) shall conduct a pilot program, to be known as
 12 the ‘Federal Real Property Disposal Pilot Program’,
 13 under which real property that is not meeting Federal
 14 Government needs may be disposed of in accordance with
 15 this subchapter.

16 “(b) For purposes of this subchapter, the Director
 17 shall identify criteria for determining whether real prop-
 18 erty is not meeting Federal Government needs.

19 “(c) The Federal Real Property Disposal Pilot Pro-
 20 gram shall terminate 5 years after the date of the enact-
 21 ment of this subchapter.

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

23 “Agencies will recommend candidate disposition
 24 properties to the Director for participation in the pilot
 25 program. The Director, with the concurrence of the head
 26 of the executive agency concerned and consistent with the

1 criteria established in section 621, may then select such
2 candidate properties for participation in the pilot program
3 and notify the recommending agency accordingly.

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

5 “(a) For purposes of the pilot program, an ‘expedited
6 disposal of a real property’ is a sale of real property for
7 cash that is conducted pursuant to the requirements of
8 section 545 of this title.

9 “(b) Real property sold under the pilot program must
10 be sold at not less than the fair market value as deter-
11 mined by the Director in consultation with the head of
12 the executive agency. Costs associated with disposal may
13 not exceed the fair market value of the property unless
14 the Director approves incurring such costs.

15 “(c) A real property may be sold under the pilot pro-
16 gram only if the property will generate monetary proceeds
17 to the Federal Government, as provided in subsection (b).
18 A disposal of real property under the pilot program may
19 not include any exchange, trade, transfer, acquisition of
20 like-kind property, or other non-cash transaction as part
21 of the disposal.

22 “(d) Nothing in this subchapter shall be construed
23 as terminating or in any way limiting authorities that are
24 otherwise available to agencies under other provisions of

1 law to dispose of Federal real property, except as provided
 2 in subsection (e).

3 “(e) Any expedited disposal of a real property con-
 4 ducted under this section shall not be subject to—

5 “(1) subchapter IV of this chapter;

6 “(2) sections 550 and 553 of title 40, United
 7 States Code;

8 “(3) section 501 of the McKinney-Vento Home-
 9 less Assistance Act (42 U.S.C. 11411);

10 “(4) any other provision of law authorizing the
 11 no-cost conveyance of real property owned by the
 12 Federal Government; or

13 “(5) any congressional notification requirement
 14 other than that in section 545 of this title.

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

17 “(a) Agencies that conduct expedited disposals of real
 18 properties under this subchapter shall be reimbursed from
 19 the proceeds for the administrative expenses associated
 20 with the disposal of such properties. Such amounts will
 21 be credited as offsetting collections to the account that in-
 22 curred such expenses, to remain available until expended
 23 without further appropriations.

24 “(b) After payment of such administrative costs, the
 25 balance of the proceeds shall be distributed as follows:

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

3 “(2) 20 percent shall be deposited into the ac-
4 count of the agency that owned the real property
5 and initiated the disposal action. Such funds shall be
6 available without further appropriation, to remain
7 available for the period of the pilot program, for ac-
8 tivities related to Federal real property capital im-
9 provements and disposal activities. Upon termination
10 of the pilot program, any unobligated amounts shall
11 be transferred to the general fund of the Treasury.”.

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

~~“SUBCHAPTER VII—EXPEDITED DISPOSAL OF REAL PROPERTY~~

~~“Sec. 621. 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 dis-
posals.”.~~

16 **SECTION 1. FEDERAL REAL PROPERTY DISPOSAL PILOT**
17 **PROGRAM.**

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

1 “SUBCHAPTER VII—EXPEDITED DISPOSAL OF
2 REAL PROPERTY

3 “§ 621. *Definitions*

4 “In this subchapter:

5 “(1) *DIRECTOR*.—The term ‘Director’ means the
6 Director of the Office of Management and Budget.

7 “(2) *EXPEDITED DISPOSAL OF A REAL PROP-*
8 *ERTY*.—The term ‘expedited disposal of a real prop-

9 erty’ means a demolition of real property or a sale

10 of real property for cash that is conducted under the

11 requirements of section 545.

12 “(3) *LANDHOLDING AGENCY*.—The term ‘land-

13 holding agency’ means a landholding agency as de-

14 fined under section 501(i)(3) of the McKinney-Vento

15 Homeless Assistance Act (42 U.S.C. 11411(i)(3)).

16 “(4) *REAL PROPERTY*.—

17 “(A) *IN GENERAL*.—The term ‘real prop-

18 erty’ means—

19 “(i) a parcel of real property under the

20 administrative jurisdiction of the Federal

21 Government that is—

22 “(I) excess;

23 “(II) surplus;

24 “(III) underperforming; or

1 “(IV) otherwise not meeting the
 2 needs of the Federal Government, as
 3 determined by the Director; and

4 “(ii) a building or other structure lo-
 5 cated on real property described under
 6 clause (i).

7 “(B) *EXCLUSION.*—The term ‘real property’
 8 excludes any parcel of real property or building
 9 or other structure located on such real property
 10 that is to be closed or realigned under the De-
 11 fense Base Closure and Realignment Act of 1990
 12 (part A of title XXIX of Public Law 101–510; 10
 13 U.S.C. 2687 note).

14 “(5) *REPRESENTATIVE OF THE HOMELESS.*—The
 15 term ‘representative of the homeless’ means a rep-
 16 resentative of the homeless as defined under section
 17 501(i)(4) of the McKinney-Vento Homeless Assistance
 18 Act (42 U.S.C. 11411(i)(4)).

19 **“§ 622. Pilot program**

20 “(a) The Director of the Office of Management and
 21 Budget shall conduct a pilot program, to be known as the
 22 ‘Federal Real Property Disposal Pilot Program’, under
 23 which real property that is not meeting Federal Govern-
 24 ment needs may be disposed of in accordance with this sub-
 25 chapter.

1 “(b) *The Federal Real Property Disposal Pilot Pro-*
 2 *gram shall terminate 5 years after the date of the enactment*
 3 *of this subchapter.*

4 **“§ 623. Selection of real properties**

5 “(a) *Agencies shall recommend candidate disposition*
 6 *real properties to the Director for participation in the pilot*
 7 *program established under section 622.*

8 “(b) *The Director, with the concurrence of the head of*
 9 *the executive agency concerned and consistent with the cri-*
 10 *teria established in this subchapter, may then select such*
 11 *candidate real properties for participation in the pilot pro-*
 12 *gram and notify the recommending agency accordingly.*

13 “(c) *The Director shall ensure that all real properties*
 14 *selected for disposition under this section are listed on a*
 15 *website that shall—*

16 “(1) *be updated routinely; and*

17 “(2) *include the functionality to allow members*
 18 *of the public, at their option, to receive such updates*
 19 *through electronic mail.*

20 “(d) *The Secretary of Housing and Urban Develop-*
 21 *ment shall ensure that efforts are taken to inform represent-*
 22 *atives of the homeless about—*

23 “(1) *the pilot program established under section*
 24 *622; and*

25 “(2) *the website under subsection (c).*

1 “(e) *The Secretary of Housing and Urban Develop-*
 2 *ment shall—*

3 “(1) *make available to the public upon request*
 4 *all information (other than valuation information),*
 5 *regardless of format, in the possession of the Depart-*
 6 *ment of Housing and Urban Development relating to*
 7 *the properties listed on the website under subsection*
 8 *(c), including environmental assessment data; and*

9 “(2) *maintain a current list of agency contacts*
 10 *for making referrals to inquiries for information re-*
 11 *lating to specific properties.*

12 **“§ 624. Suitability determination**

13 “(a) *After the Director selects the candidate real prop-*
 14 *erties that may participate in the pilot program under sec-*
 15 *tion 623, the Secretary of Housing and Urban Development*
 16 *shall determine whether each such real property is suitable*
 17 *for use to assist the homeless.*

18 “(b) *The Secretary of Housing and Urban Develop-*
 19 *ment shall base the suitability determination required*
 20 *under subsection (a)—*

21 “(1) *on the suitability criteria identified by the*
 22 *Secretary of Housing and Urban Development under*
 23 *section 501(a) of the McKinney-Vento Homeless As-*
 24 *sistance Act (42 U.S.C. 11411(a));*

1 “(2) for real properties located within a Federal
 2 installation, campus, or compound, on whether such
 3 property can easily be transported to an off-site loca-
 4 tion; and

5 “(3) for real properties where the predominant
 6 use is other than housing, on whether the size of the
 7 real property is equal to or greater than 100,000
 8 square feet.

9 “(c) Immediately after a determination of suitability
 10 is made under this section, the Director shall publish, on
 11 the website described in section 623(c) the following infor-
 12 mation:

13 “(1) The address of each such real property.

14 “(2) The result of the suitability determination
 15 required under subsection (a) for each such real prop-
 16 erty.

17 “(3) The date on which the suitability deter-
 18 mination was made.

19 **“§ 625. Unsuitable real property**

20 “(a) If a real property is determined unsuitable under
 21 section 624, such real property may not be disposed of or
 22 otherwise used for any other purpose for at least 20 days
 23 after such determination was made.

24 “(b)(1) Not later than 20 days after a real property
 25 has been determined unsuitable under section 624 and be-

1 *fore disposal of the real property in accordance with sub-*
2 *section (d), any representative of the homeless may appeal*
3 *to the Secretary of Housing and Urban Development for*
4 *a secondary review of such determination.*

5 “(2) *Not later than 20 days after a real property has*
6 *been determined unsuitable under subsection (b)(3) of sec-*
7 *tion 624, the Secretary of Housing and Urban Development*
8 *shall deem such real property suitable notwithstanding the*
9 *requirements of that subsection if a representative of the*
10 *homeless has produced clear and convincing evidence that*
11 *such property can be utilized for the benefit of the homeless.*
12 *Any determination under this paragraph shall be com-*
13 *mitted to the unreviewable discretion of the Secretary of*
14 *Housing and Urban Development.*

15 “(c) *Not later than 20 days after the receipt of any*
16 *appeal under subsection (b), the Secretary of Housing and*
17 *Urban Development shall respond to such appeal and shall*
18 *make a final suitability determination regarding the real*
19 *property.*

20 “(d)(1) *If at the end of the 20-day period required*
21 *under subsection (a), no appeal for review of a determina-*
22 *tion of unsuitability is received by the Secretary of Housing*
23 *and Urban Development, such real property shall be dis-*
24 *posed of in accordance with section 627.*

1 “(2) *If after conducting a secondary review of a deter-*
 2 *mination of unsuitability under subsection (b), the Sec-*
 3 *retary of Housing and Urban Development determines that*
 4 *the real property remains unsuitable under subsection (c),*
 5 *such real property shall be disposed of in accordance with*
 6 *section 627.*

7 “(3) *If after conducting a secondary review of a deter-*
 8 *mination of unsuitability under subsection (b), the Sec-*
 9 *retary of Housing and Urban Development determines that*
 10 *the real property is suitable under subsection (c), such real*
 11 *property shall be treated as suitable property for purposes*
 12 *of section 626.*

13 **“§ 626. Suitable real property**

14 “(a)(1) *If a real property is determined suitable under*
 15 *section 624 or upon a secondary review under section*
 16 *625(d), any representative of the homeless shall have not*
 17 *more than 90 days after such determination to submit an*
 18 *application to the Secretary of Health and Human Services*
 19 *for the transfer of the real property to that representative.*
 20 *If an application cannot be completed within the 90-day*
 21 *period due to non-material factors, the Secretary of Health*
 22 *and Human Services, with the concurrence of the appro-*
 23 *priate landholding agency, may grant reasonable exten-*
 24 *sions.*

1 “(2) *If at the end of the time period described under*
 2 *paragraph (1), no representative of the homeless has sub-*
 3 *mitted an application, such real property shall be disposed*
 4 *of in accordance with section 627.*

5 “(b)(1) *Not later than 20 days after the receipt of any*
 6 *application under subsection (a)(1), the Secretary of Health*
 7 *and Human Services shall assess such application and de-*
 8 *termine whether to approve or deny the request for the*
 9 *transfer of the real property to such applicant.*

10 “(2) *If the application of a representative of the home-*
 11 *less is denied by the Secretary of Health and Human Serv-*
 12 *ices under paragraph (1), such real property shall be dis-*
 13 *posed of in accordance with section 627.*

14 “(3) *If the application of a representative of the home-*
 15 *less is approved by the Secretary of Health and Human*
 16 *Services under paragraph (1), such real property shall be*
 17 *made promptly available to that representative by permit*
 18 *or lease, or by deed, as a public health use under subsections*
 19 *(a) through (d) of section 550.*

20 **“§ 627. Expedited disposal requirements**

21 “(a) *Real property sold under the pilot program estab-*
 22 *lished under this subchapter shall be sold at not less than*
 23 *the fair market value, as determined by the Director in con-*
 24 *sultation with the head of the executive agency. Costs associ-*
 25 *ated with such disposal may not exceed the fair market*

1 *value of the property unless the Director approves incurring*
 2 *such costs.*

3 “(b) *A real property may be sold under the pilot pro-*
 4 *gram established under this subchapter only if the property*
 5 *will generate monetary proceeds to the Federal Government,*
 6 *as provided in subsection (a). A disposal of real property*
 7 *under the pilot program may not include any exchange,*
 8 *trade, transfer, acquisition of like-kind property, or other*
 9 *non-cash transaction as part of the disposal.*

10 “(c) *Nothing in this subchapter shall be construed as*
 11 *terminating or in any way limiting authorities that are*
 12 *otherwise available to agencies under other provisions of*
 13 *law to dispose of Federal real property, except as provided*
 14 *in subsection (d).*

15 “(d) *Any expedited disposal of a real property con-*
 16 *ducted under this subchapter shall not be subject to—*

17 “(1) *subchapter IV of this chapter;*

18 “(2) *sections 550 and 553 of this title;*

19 “(3) *section 501 of the McKinney-Vento Home-*
 20 *less Assistance Act (42 U.S.C. 11411);*

21 “(4) *any other provision of law authorizing the*
 22 *no-cost conveyance of real property owned by the Fed-*
 23 *eral Government; or*

24 “(5) *any congressional notification requirement*
 25 *other than that in section 545.*

1 **“§ 628. Special rules for deposit and use of proceeds**
 2 **from disposal of real property**

3 “(a) Agencies that conduct the disposal of real prop-
 4 erties under this subchapter shall be reimbursed from the
 5 proceeds, if any, from such disposal for the administrative
 6 expenses associated with such disposal. Such amounts shall
 7 be credited as offsetting collections to the account that in-
 8 curred such expenses, to remain available until expended.

9 “(b)(1) After payment of such administrative costs, the
 10 balance of the proceeds shall be distributed as follows:

11 “(A) 80 percent shall be deposited into the Treas-
 12 ury as miscellaneous receipts.

13 “(B) 20 percent shall be deposited into the ac-
 14 count of the agency that owned the real property and
 15 initiated the disposal action.

16 “(2) Funds deposited under paragraph (1)(B) shall re-
 17 main available until expended for the period of the pilot
 18 program, for activities related to Federal real property cap-
 19 ital improvements and disposal activities. Upon termi-
 20 nation of the pilot program, any unobligated amounts shall
 21 be transferred to the general fund of the Treasury.

22 **“§ 629. Limitation on number of permissible cash**
 23 **sales**

24 “The total number of cash sales of real properties to
 25 be disposed of under this subchapter over the 5-year term

1 *of the Federal Real Property Disposal Pilot Program shall*
 2 *not exceed 750.*

3 **“§ 630. Government Accountability Office study**

4 “(a) Not later than 36 months after the date of enact-
 5 ment of this subchapter, the Comptroller General of the
 6 United States shall submit to Congress and make publicly
 7 available a study of the effectiveness of the pilot program.

8 “(b) The study described under subsection (a) shall in-
 9 clude at a minimum—

10 “(1) recommendations for permanent reforms to
 11 statutes governing real property disposals and no cost
 12 conveyances; and

13 “(2) recommendations for improving the perma-
 14 nent process by which Federal properties are made
 15 available for use by the homeless.”.

16 (b) *TECHNICAL AND CONFORMING AMENDMENT.*—The
 17 table of sections for chapter 5 of subtitle I of title 40, United
 18 States Code, is amended by inserting after the item relating
 19 to section 611 the following:

“SUBCHAPTER VII—EXPEDITED DISPOSAL OF REAL PROPERTY

“Sec. 621. Definitions.

“Sec. 622. Pilot program.

“Sec. 623. Selection of real properties.

“Sec. 624. Suitability determination.

“Sec. 625. Unsuitable real property.

“Sec. 626. Suitable real property.

“Sec. 627. Expedited disposal requirements.

“Sec. 628. Special rules for deposit and use of proceeds from disposal of real
 property.

“Sec. 629. Limitation on number of permissible cash sales.

“Sec. 630. Government Accountability Office study.”.

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To establish a pilot program for the expedited disposal of Federal real property.

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