

Calendar No. 81118TH CONGRESS
1ST SESSION**S. 211****[Report No. 118-35]**

To authorize the Administrator of General Services to establish an enhanced use lease pilot program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 1, 2023

Mr. PETERS (for himself, Mr. LANKFORD, Mr. HAWLEY, and Ms. SINEMA) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

MAY 30, 2023

Reported by Mr. PETERS, with an amendment

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

To authorize the Administrator of General Services to establish an enhanced use lease pilot program, 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 “Saving Money and Ac-
3 celerating Repairs Through Leasing Act” or the “SMART
4 Leasing Act”.

5 **SEC. 2. ENHANCED USE LEASE PILOT PROGRAM.**

6 (a) DEFINITIONS.—In this section:

7 (1) ADMINISTRATOR.—The term “Adminis-
8 trator” means the Administrator of General Serv-
9 ices.

10 (2) PILOT PROGRAM.—The term “pilot pro-
11 gram” means the enhanced use lease pilot program
12 established under subsection (b).

13 (3) RELEVANT CONGRESSIONAL COMMIT-
14 TEES.—The term “relevant congressional commit-
15 tees” means—

16 (A) the Committee on Homeland Security
17 and Governmental Affairs of the Senate;

18 (B) the Committee on Environment and
19 Public Works of the Senate;

20 (C) the Committee on Oversight and Ac-
21 countability of the House of Representatives;
22 and

23 (D) the Committee on Transportation and
24 Infrastructure of the House of Representatives.

25 (b) ESTABLISHMENT.—The Administrator may es-
26 tablish an enhanced use lease pilot program under which

1 the Administrator may authorize Federal agencies to enter
2 into a lease with any person or entity (including another
3 department or agency of the Federal Government or an
4 entity of a State or local government) with regard to any
5 underutilized nonexcess real property and related personal
6 property under the jurisdiction of the Administrator.

7 (c) MONETARY CONSIDERATION.—

8 (1) FAIR MARKET VALUE.—A person or entity
9 entering into a lease under the pilot program shall
10 provide monetary consideration for the lease at fair
11 market value, as determined by the Administrator.

12 (2) UTILIZATION.—

13 (A) IN GENERAL.—The Administrator may
14 use monetary consideration received under this
15 subsection for a lease entered into under the
16 pilot program to cover the full costs to the Ad-
17 ministration in connection with the lease.

18 (B) CAPITAL REVITALIZATION AND IM-
19 PROVEMENTS.—Any amounts of monetary con-
20 sideration received under this subsection that
21 are not used in accordance with subparagraph
22 (A) shall—

23 (i) be deposited in a working capital
24 account to be established by the Federal

1 agency engaged in the lease of the prop-
2 erty; and

3 (ii) remain available until expended
4 for maintenance, capital revitalization, and
5 improvements of the real property assets
6 and related personal property at the Fed-
7 eral agency, subject to the concurrence of
8 the Administrator.

9 (d) **ADDITIONAL TERMS AND CONDITIONS.**—The Ad-
10 ministrator may require such terms and conditions in con-
11 nection with a lease under the pilot program as the Ad-
12 ministrator considers appropriate to protect the interests
13 of the United States.

14 (e) **RELATIONSHIP TO OTHER LEASE AUTHORITY.**—
15 The authority under the pilot program to lease property
16 under the jurisdiction of the Administrator is in addition
17 to any other authority under Federal law to lease property
18 under the jurisdiction of the Administrator.

19 (f) **WAIVER.**—A property leased under the pilot pro-
20 gram shall not be subject to section 501 of the McKinney-
21 Vento Homeless Assistance Act (42 U.S.C. 11411) before
22 leasing the property under such pilot program.

23 (g) **LEASE RESTRICTIONS.**—

24 (1) **NO LEASEBACK OR GUARANTEED SERVICE**
25 **CONTRACT.**—The Administrator may not lease back

1 property under the pilot program during the term of
2 the lease or enter into guaranteed service or similar
3 contracts with the lessee relating to the property.

4 (2) CERTIFICATION.—The Administrator may
5 not enter into a lease under the pilot program unless
6 the Administrator certifies that the lease will not
7 have a negative impact on the mission of the Admin-
8 istrator or the applicable Federal agency.

9 (3) MAXIMUM NUMBER OF LEASES.—The Ad-
10 ministrator may enter into not more than 6 leases
11 under the pilot program during each fiscal year.

12 (4) DURATION OF LEASES.—The Administrator
13 may not enter into a lease under the pilot program
14 with a term of more than 15 years.

15 (h) REPORTING.—

16 (1) ANNUAL REPORTS.—Not later than Janu-
17 ary 31 of each year until the year after the year in
18 which authority to enter into leases under the pilot
19 program expires under subsection (i)(1), the Admin-
20 istrator shall submit to the relevant congressional
21 committees a report on the pilot program, includ-
22 ing—

23 (A) a description of each lease entered into
24 under the pilot program, including the value of

1 the lease, the amount of consideration received,
2 and the use of the consideration received; and

3 ~~(B)~~ the availability and use of the funds
4 received under the pilot program for the Ad-
5 ministrator or the Federal agency engaged in
6 the lease of nonexcess real property and related
7 personal property.

8 ~~(2)~~ FINAL REPORT.—Not later than 2 years
9 after the date of enactment of this Act, the Adminis-
10 trator shall submit to the relevant congressional
11 committees a final report on the pilot program, in-
12 cluding a recommendation on whether the pilot pro-
13 gram should be extended.

14 ~~(i)~~ DURATION.—

15 ~~(1)~~ IN GENERAL.—The authority to enter into
16 leases under the pilot program shall expire on the
17 date that is 2 years after the date of enactment of
18 this Act.

19 ~~(2)~~ SAVINGS PROVISION.—The expiration under
20 this subsection of authority to enter into leases
21 under the pilot program shall not affect the validity
22 or term of leases or the retention of proceeds by the
23 Federal agency from leases entered into under the
24 pilot program before the expiration of the authority.

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Saving Money and Ac-*
 3 *celerating Repairs Through Leasing Act” or the “SMART*
 4 *Leasing Act”.*

5 **SEC. 2. ENHANCED USE LEASE PILOT PROGRAM.**

6 (a) *DEFINITIONS.—In this section:*

7 (1) *ADMINISTRATOR.—The term “Adminis-*
 8 *trator” means the Administrator of General Services.*

9 (2) *PILOT PROGRAM.—The term “pilot program”*
 10 *means the enhanced use lease pilot program estab-*
 11 *lished under subsection (b).*

12 (3) *RELEVANT CONGRESSIONAL COMMITTEES.—*
 13 *The term “relevant congressional committees”*
 14 *means—*

15 (A) *the Committee on Homeland Security*
 16 *and Governmental Affairs of the Senate;*

17 (B) *the Committee on Environment and*
 18 *Public Works of the Senate;*

19 (C) *the Committee on Oversight and Ac-*
 20 *countability of the House of Representatives; and*

21 (D) *the Committee on Transportation and*
 22 *Infrastructure of the House of Representatives.*

23 (b) *ESTABLISHMENT.—The Administrator may estab-*
 24 *lish an enhanced use lease pilot program under which the*
 25 *Administrator may authorize Federal agencies to enter into*
 26 *a lease with any person or entity (including another de-*

1 *partment or agency of the Federal Government or an entity*
 2 *of a State or local government) with regard to any under-*
 3 *utilized nonexcess real property and related personal prop-*
 4 *erty under the jurisdiction of the Administrator.*

5 *(c) MONETARY CONSIDERATION.—*

6 *(1) FAIR MARKET VALUE.—A person or entity*
 7 *entering into a lease under the pilot program shall*
 8 *provide monetary consideration for the lease at fair*
 9 *market value, as determined by the Administrator.*

10 *(2) UTILIZATION.—*

11 *(A) IN GENERAL.—The Administrator may*
 12 *use monetary consideration received under this*
 13 *subsection for a lease entered into under the pilot*
 14 *program to cover the full costs to the Adminis-*
 15 *trator in connection with the lease.*

16 *(B) CAPITAL REVITALIZATION AND IM-*
 17 *PROVEMENTS; DEFICIT REDUCTION.—*

18 *(i) CAPITAL REVITALIZATION AND IM-*
 19 *PROVEMENTS.—50 percent of the amounts of*
 20 *monetary consideration received under this*
 21 *subsection that are not used in accordance*
 22 *with subparagraph (A) shall—*

23 *(I) be deposited in a working cap-*
 24 *ital account to be established by the*

1 *Federal agency engaged in the lease of*
2 *the property; and*

3 (ii) *remain available until ex-*
4 *pended for maintenance, capital revi-*
5 *talization, and improvements of the*
6 *real property assets and related per-*
7 *sonal property at the Federal agency,*
8 *subject to the concurrence of the Ad-*
9 *ministrator.*

10 (ii) *DEFICIT REDUCTION.*—50 percent
11 *of the amounts of monetary consideration*
12 *received under this subsection that are not*
13 *used in accordance with subparagraph (A)*
14 *shall be deposited in the general fund of the*
15 *Treasury for the sole purpose of deficit re-*
16 *duction.*

17 (d) *ADDITIONAL TERMS AND CONDITIONS.*—*The Ad-*
18 *ministrator may require such terms and conditions in con-*
19 *nection with a lease under the pilot program as the Admin-*
20 *istrator considers appropriate to protect the interests of the*
21 *United States.*

22 (e) *RELATIONSHIP TO OTHER LEASE AUTHORITY.*—
23 *The authority under the pilot program to lease property*
24 *under the jurisdiction of the Administrator is in addition*

1 *to any other authority under Federal law to lease property*
2 *under the jurisdiction of the Administrator.*

3 (f) *WAIVER.—A property leased under the pilot pro-*
4 *gram shall not be subject to section 501 of the McKinney–*
5 *Vento Homeless Assistance Act (42 U.S.C. 11411) before*
6 *leasing the property under such pilot program.*

7 (g) *LEASE RESTRICTIONS.—*

8 (1) *NO LEASEBACK OR GUARANTEED SERVICE*
9 *CONTRACT.—The Administrator may not lease back*
10 *property under the pilot program during the term of*
11 *the lease or enter into guaranteed service or similar*
12 *contracts with the lessee relating to the property.*

13 (2) *CERTIFICATION.—The Administrator may*
14 *not enter into a lease under the pilot program unless*
15 *the Administrator certifies that the lease will not have*
16 *a negative impact on the mission of the Adminis-*
17 *trator or the applicable Federal agency.*

18 (3) *MAXIMUM NUMBER OF LEASES.—The Admin-*
19 *istrator may enter into not more than 6 leases under*
20 *the pilot program during each fiscal year.*

21 (4) *DURATION OF LEASES.—The Administrator*
22 *may not enter into a lease under the pilot program*
23 *with a term of more than 15 years.*

1 (5) *PROHIBITION.*—*The Administrator may not*
2 *enter into a lease under the pilot program with any*
3 *individual or entity that—*

4 (A) *intends to carry out, under the lease—*

5 (i) *activities that are illegal—*

6 (I) *to conduct in Federal facili-*
7 *ties; or*

8 (II) *under Federal law; or*

9 (ii) *activities for which Federal fund-*
10 *ing is prohibited;*

11 (B) *is a political organization described in*
12 *section 527 of the Internal Revenue Code of*
13 *1986;*

14 (C) *is owned, operated, or controlled by a*
15 *foreign government; or*

16 (D) *received any Federal grant, contract, or*
17 *award from the applicable Federal agency en-*
18 *gaged in the lease that is still in the performance*
19 *period.*

20 (6) *LIMITATION ON USE OF LEASES.*—*No lease*
21 *entered into under the pilot program may be used to*
22 *carry out lobbying activities (as defined in section 3*
23 *of the Lobbying Disclosure Act of 1995 (2 U.S.C.*
24 *1602)).*

25 (h) *REPORTING.*—

1 (1) *ANNUAL REPORTS.*—Not later than January
2 31 of each year until the year after the year in which
3 authority to enter into leases under the pilot program
4 expires under subsection (i)(1), the Administrator
5 shall submit to the relevant congressional committees
6 a report on the pilot program, including—

7 (A) a description of each lease entered into
8 under the pilot program, including the value of
9 the lease, the amount of consideration received,
10 and the use of the consideration received; and

11 (B) the availability and use of the funds re-
12 ceived under the pilot program for the Adminis-
13 trator or the Federal agency engaged in the lease
14 of nonexcess real property and related personal
15 property.

16 (2) *FINAL REPORT.*—Not later than 2 years after
17 the date of enactment of this Act, the Administrator
18 shall submit to the relevant congressional committees
19 a final report on the pilot program, including a rec-
20 ommendation on whether the pilot program should be
21 extended.

22 (i) *DURATION.*—

23 (1) *IN GENERAL.*—The authority to enter into
24 leases under the pilot program shall expire on the

1 *date that is 2 years after the date of enactment of this*
2 *Act.*

3 (2) *SAVINGS PROVISION.—The expiration under*
4 *this subsection of authority to enter into leases under*
5 *the pilot program shall not affect the validity or term*
6 *of leases or the retention of proceeds by the Federal*
7 *agency from leases entered into under the pilot pro-*
8 *gram before the expiration of the authority.*

Calendar No. 81

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