

112TH CONGRESS  
1ST SESSION

# S. 479

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.

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IN THE SENATE OF THE UNITED STATES

MARCH 3, 2011

Mr. PRYOR introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Real Property  
5 Disposal Enhancement Act of 2011”.

6 **SEC. 2. DUTIES OF THE GENERAL SERVICES ADMINISTRA-**  
7 **TION AND EXECUTIVE AGENCIES.**

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

1 **“§ 524. Duties of the General Services Administration**  
2 **and executive agencies**

3 “(a) DUTIES OF THE GENERAL SERVICES ADMINIS-  
4 TRATION.—

5 “(1) GUIDANCE.—

6 “(A) IN GENERAL.—The Administrator  
7 shall issue guidance for the development and  
8 implementation of agency real property plans.

9 “(B) CONTENTS.—Guidance issued under  
10 this paragraph shall include recommendations  
11 on—

12 “(i) how to identify excess properties;

13 “(ii) how to evaluate the costs and  
14 benefits involved with disposing of real  
15 property;

16 “(iii) how to prioritize disposal deci-  
17 sions based on agency missions and antici-  
18 pated future need for holdings; and

19 “(iv) how best to dispose of those  
20 properties identified as excess to the needs  
21 of the agency.

22 “(2) ANNUAL REPORT.—

23 “(A) IN GENERAL.—The Administrator  
24 shall submit an annual report, for each of the  
25 first 5 years after 2011, to the congressional  
26 committees listed in subparagraph (C) based on

1 data submitted from all executive agencies, de-  
2 tailing executive agency efforts to reduce their  
3 real property assets and the additional informa-  
4 tion described in subparagraph (B).

5 “(B) CONTENTS.—The report shall con-  
6 tain the following information for the year cov-  
7 ered by the report:

8 “(i) REAL PROPERTY.—The aggre-  
9 gated estimated market value and number  
10 of real property assets under the custody  
11 and control of all executive agencies, set  
12 forth Government-wide and by agency, and  
13 for each at the constructed asset level and  
14 at the facility/installation level.

15 “(ii) SURPLUS REAL PROPERTY.—The  
16 aggregated estimated market value and  
17 number of surplus real property assets  
18 under the custody and control of all execu-  
19 tive agencies, set forth Government-wide  
20 and by agency, and for each at the con-  
21 structed asset level and at the facility/in-  
22 stallation level.

23 “(iii) COSTS.—

24 “(I) MAINTENANCE.—The aggre-  
25 gated cost for maintaining all surplus

1 real property under the custody and  
2 control of all executive agencies, set  
3 forth Government-wide and by agency,  
4 and for each at the constructed asset  
5 level and at the facility/installation  
6 level.

7 “(II) RECURRING COSTS.—For  
8 purposes of subclause (I), costs for  
9 real properties owned by the Federal  
10 Government shall include recurring  
11 maintenance and repair costs, utili-  
12 ties, cleaning and janitorial costs, and  
13 roads and grounds expenses.

14 “(III) LEASE COSTS.—For pur-  
15 poses of subclause (I), costs for real  
16 properties leased by the Federal Gov-  
17 ernment shall include lease costs, in-  
18 cluding base and operating rent and  
19 any other relevant costs listed in sub-  
20 clause (II) not covered in the lease  
21 contract.

22 “(iv) DEFERRED MAINTENANCE  
23 COSTS.—The aggregated estimated de-  
24 ferred maintenance costs of all real prop-  
25 erty under the custody and control of all

1 executive agencies, set forth Government-  
2 wide and by agency, and for each at the  
3 constructed asset level and at the facility/  
4 installation level.

5 “(v) DISPOSED PROPERTY.—For each  
6 surplus real property facility/installation  
7 disposed of, an indication of—

8 “(I) its geographic location with  
9 address and description;

10 “(II) its size, including square  
11 footage and acreage;

12 “(III) the date and method of  
13 disposal; and

14 “(IV) its estimated market value.

15 “(vi) DISPOSED PROPERTY.—Such  
16 other information as the Administrator  
17 considers appropriate.

18 “(C) CONGRESSIONAL COMMITTEES.—The  
19 congressional committees listed in this subpara-  
20 graph are—

21 “(i) the Committee on Homeland Se-  
22 curity and Governmental Affairs and the  
23 Committee on Environment and Public  
24 Works of the Senate; and

1                   “(ii) the Committee on Oversight and  
2                   Government Reform and the Committee on  
3                   Transportation and Infrastructure of the  
4                   House of Representatives.

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

8                   “(b) DUTIES OF EXECUTIVE AGENCIES.—

9                   “(1) IN GENERAL.—Each executive agency  
10                  shall—

11                   “(A) maintain adequate inventory controls  
12                   and accountability systems for property under  
13                   its control;

14                   “(B) continuously survey property under  
15                   its control to identify excess property;

16                   “(C) promptly report excess property to  
17                   the Administrator;

18                   “(D) perform the care and handling of ex-  
19                   cess property; and

20                   “(E) transfer or dispose of excess property  
21                   as promptly as possible in accordance with au-  
22                   thority delegated and regulations prescribed by  
23                   the Administrator.

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

4           “(A) develop and implement a real prop-  
5 erty plan in order to identify properties to de-  
6 clare as excess using the guidance issued under  
7 subsection (a)(1);

8           “(B) identify and categorize all real prop-  
9 erty owned, leased, or otherwise managed by  
10 the agency;

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

14           “(D) when appropriate, use the authorities  
15 in section 572(a)(2)(B) in order to identify and  
16 prepare real property to be reported as excess.

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

19           “(A) reassign property to another activity  
20 within the agency when the property is no  
21 longer required for the purposes of the appro-  
22 priation used to make the purchase;

23           “(B) transfer excess property under its  
24 control to other Federal agencies and to organi-  
25 zations specified in section 321(c)(2); and

1           “(C) obtain excess properties from other  
2           Federal agencies to meet mission needs before  
3           acquiring non-Federal property.”.

4           (b) **TECHNICAL AND CONFORMING AMENDMENT.**—  
5           The table of sections for chapter 5 of title 40, United  
6           States Code, is amended by striking the item relating to  
7           section 524 and inserting the following:

          “524. Duties of the General Services Administration and executive agencies.”.

8           **SEC. 3. ENHANCED AUTHORITIES WITH REGARD TO PRE-**  
9                           **PARING PROPERTIES TO BE REPORTED AS**  
10                          **EXCESS.**

11           Section 572(a)(2) of title 40, United States Code, is  
12           amended—

13                   (1) by redesignating subparagraphs (B) and  
14                   (C) as subparagraphs (C) and (D), respectively; and

15                   (2) by inserting after subparagraph (A) the fol-  
16           lowing:

17                   “(B) **ADDITIONAL AUTHORITY.**—

18                           “(i) **PAYMENT OF DIRECT AND INDI-**  
19                           **RECT COSTS.**—From the fund described in  
20                           paragraph (1), subject to clause (iv), the  
21                           Administrator may obligate an amount to  
22                           pay the direct and indirect costs related to  
23                           identifying and preparing properties to be  
24                           reported excess by another agency.



1           “(ii) REIMBURSEMENT.—The General  
2           Services Administration shall be reim-  
3           bursed from the proceeds of the sale of  
4           such properties for such costs.

5           “(iii) NET PROCEEDS.—Net proceeds  
6           shall be dispersed under section 571.

7           “(iv) LIMITATION.—The authority  
8           under clause (i) to obligate funds to pre-  
9           pare properties to be reported excess does  
10          not include the authority to convey such  
11          properties by use, sale, lease, exchange, or  
12          otherwise, including through leaseback ar-  
13          rangements or service agreements.

14          “(v) RULE OF CONSTRUCTION.—  
15          Nothing in this subparagraph shall be con-  
16          strued to affect subparagraph (D).”.

17 **SEC. 4. ENHANCED AUTHORITIES WITH REGARD TO RE-**  
18 **VERTED REAL PROPERTY.**

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

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

1 (b) REQUIREMENTS RELATED TO SALES OF RE-  
2 VERTED PROPERTY UNDER SECTION 550.—Section  
3 550(b)(1) of title 40, United States Code, is amended—

4 (1) by striking “(1) IN GENERAL.—” and in-  
5 serting the following:

6 “(1) IN GENERAL.—

7 “(A) ENFORCEMENT.—”; and

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

16 “(B) AVAILABILITY TO STATE AND LOCAL GOV-  
17 ERNMENTS.—Before sale, the Administrator shall  
18 make such property available to State and local gov-  
19 ernments and certain nonprofit institutions or orga-  
20 nizations under this section and sections 553 and  
21 554.”.

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 striking “(e) ENFORCEMENT AND REVI-  
2           SION OF INSTRUMENTS TRANSFERRING PROPERTY  
3           UNDER THIS SECTION.—” and inserting the fol-  
4           lowing:

5           “(e) ENFORCEMENT AND REVISION OF INSTRU-  
6           MENTS TRANSFERRING PROPERTY UNDER THIS SEC-  
7           TION.—

8           “(1) IN GENERAL.—”; and

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

17          “(2) AVAILABILITY TO STATE AND LOCAL GOV-  
18          ERNMENTS.—Before sale, the Administrator shall  
19          make such property available to State and local gov-  
20          ernments and certain nonprofit institutions or orga-  
21          nizations under this section and sections 550 and  
22          554.”.

23          (d) REQUIREMENTS RELATED TO SALES OF RE-  
24          VERTED PROPERTY UNDER SECTION 554.—Section  
25          554(f) of title 40, United States Code, is amended—

1           (1) by striking “(f) ENFORCEMENT AND REVI-  
 2           SION OF INSTRUMENTS TRANSFERRING PROPERTY  
 3           UNDER THIS SECTION.—” and inserting the fol-  
 4           lowing:

5           “(f) ENFORCEMENT AND REVISION OF INSTRU-  
 6           MENTS TRANSFERRING PROPERTY UNDER THIS SEC-  
 7           TION.—

8           “(1) IN GENERAL.—”; and

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

17          “(2) AVAILABILITY TO STATE AND LOCAL GOV-  
 18          ERNMENTS.—Before sale, the Administrator shall  
 19          make such property available to State and local gov-  
 20          ernments and certain nonprofit institutions or orga-  
 21          nizations under this section and sections 550 and  
 22          553.”.

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

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

1       “(a) PROCEEDS FROM TRANSFER OR SALE OF REAL  
2 PROPERTY.—

3           “(1) DEPOSIT.—Net proceeds described in sub-  
4 section (d) shall be deposited into the appropriate  
5 real property account of the agency that had custody  
6 and accountability for the real property at the time  
7 the real property is determined to be excess.

8           “(2) EXPENDITURES.—

9           “(A) IN GENERAL.—Funds deposited  
10 under paragraph (1) shall be expended only as  
11 authorized in annual appropriations Acts and  
12 only for activities as described in section 524(b)  
13 and disposal activities, including paying costs  
14 incurred by the General Services Administration  
15 for any disposal-related activity authorized by  
16 this title.

17           “(B) MAINTENANCE AND REPAIRS.—  
18 Funds deposited under paragraph (1) may also  
19 be expended by the agency for maintenance and  
20 repairs of the agency’s real property necessary  
21 for its disposal or for the repair or alteration of  
22 the agency’s other real property, except that  
23 such funds shall not be authorized for expendi-  
24 ture in an appropriations Act for any repair or  
25 alteration project that is subject to the require-

1           ments of section 3307 without a prospectus  
2           submitted by the General Services Administra-  
3           tion and approved by the Committee on Envi-  
4           ronment and Public Works of the Senate and  
5           the Committee on Transportation and Infra-  
6           structure of the House of Representatives.

7           “(b) EFFECT ON OTHER SECTIONS.—Nothing in this  
8           section shall be construed to affect section 572(b), 573,  
9           or 574.

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

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

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

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

1       “(e) PROCEEDS FROM TRANSFER OR SALE OF PER-  
2       SONAL PROPERTY.—

3               “(1) IN GENERAL.—Except as otherwise pro-  
4       vided in this subchapter, proceeds described in para-  
5       graph (2) shall be deposited in the Treasury as mis-  
6       cellaneous receipts.

7               “(2) PROCEEDS.—The proceeds described in  
8       this paragraph are proceeds under this chapter  
9       from—

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

12               “(B) a sale, lease, or other disposition of  
13       surplus personal property.

14               “(3) NET PROCEEDS.—Subject to regulations  
15       under this subtitle, the expenses of the sale of per-  
16       sonal property may be paid from the proceeds of sale  
17       so that only the net proceeds are deposited in the  
18       Treasury. This paragraph applies whether proceeds  
19       are deposited as miscellaneous receipts or to the  
20       credit of an appropriation as authorized by law.”.

21 **SEC. 6. DEMONSTRATION AUTHORITY.**

22       (a) IN GENERAL.—Subchapter II of chapter 5 of title  
23       40, United States Code, is amended by adding at the end  
24       the following:





1                   “(I) the demolition is necessary  
2                   to further an identified Federal need  
3                   for which funds have been authorized  
4                   and appropriated; or

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

8           “(c) LIMITATIONS.—

9                   “(1) DEPARTMENT OF VETERANS AFFAIRS.—

10           No property of the Department of Veterans Affairs  
11           may be considered an eligible property for purposes  
12           of subsection (a).

13                   “(2) LAND.—With respect to an eligible prop-  
14           erty described in subsection (b), the land underlying  
15           the property remains subject to all public benefit re-  
16           quirements and notifications for disposal.

17           “(d) NOTIFICATION TO CONGRESS.—

18                   “(1) IN GENERAL.—A list of each eligible prop-  
19           erty described in subsection (b) that is demolished or  
20           scheduled for demolition, by date of demolition or  
21           projected demolition date, shall be sent to the con-  
22           gressional committees listed in paragraph (2) and  
23           published on the Web site of the General Services  
24           Administration biannually beginning 6 months after  
25           the date of the enactment of this section.

1           “(2) CONGRESSIONAL COMMITTEES.—The con-  
2           gressional committees listed in this paragraph are—

3                   “(A) the Committee on Homeland Security  
4                   and Governmental Affairs and the Committee  
5                   on Environment and Public Works of the Sen-  
6                   ate; and

7                   “(B) the Committee on Oversight and Gov-  
8                   ernment Reform and the Committee on Trans-  
9                   portation and Infrastructure of the House of  
10                  Representatives.

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

16          (b) TECHNICAL AND CONFORMING AMENDMENT.—  
17          The table of sections for chapter 5 of title 40, United  
18          States Code, is amended by inserting after the item relat-  
19          ing to section 529 the following:

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

○