WEST VIRGINIA CODE: §15A-3-14A

§15A-3-14a. Creation of special fund for surplus property revenue; disposal of surplus property.

(a) There is hereby created a special revenue fund in the State Treasury known as the Division of Corrections and Rehabilitation Surplus Property Fund. Moneys from this fund shall be used for facility maintenance and repair.

(b) The commissioner is hereby authorized to dispose of surplus state property owned by the division in the following manner:

(1) Transferring the particular commodities or expendable commodities between departments;

(2) Selling the commodities to county commissions, county boards of education, municipalities, public service districts, county building commissions, airport authorities, parks and recreation commissions, nonprofit domestic corporations qualified as tax exempt under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or volunteer fire departments in this state when the volunteer fire departments have been held exempt from taxation under Section 501(c) of the Internal Revenue Code;

(3) Trading in the commodities as a part payment on the purchase of new commodities;

(4) Cannibalizing the commodities pursuant to procedures established under subsection (g) of this section;

(5) Properly disposing of the commodities as waste;

(6) Selling the commodities to the general public at the posted price or to the highest bidder by means of public auctions or sealed bids, after having first advertised the time, terms, and place of the sale as a Class II legal advertisement in compliance with the provisions of §59-3-1 et seq. of this code. The publication area for the publication is the county in which the sale is to be conducted. The sale may also be advertised in other advertising media that the division considers advisable. The division may sell to the highest bidder or to any one or more of the highest bidders, if there is more than one, or, if the best interest of the state will be served, reject all bids; or

(7) Selling the commodities to the highest bidder by means of an internet auction site approved by the division, as set forth in an emergency rule promulgated pursuant to the provisions of §29A-3-15 of this code.

(c) Upon the sale to the general public or transfer of commodities or expendable commodities between departments, or upon the sale of commodities or expendable

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commodities to an eligible organization, the division shall set the price to be paid by the receiving eligible organization, with due consideration given to current market prices.

(d) The division may sell expendable, obsolete, or unused motor vehicles owned by the division to an eligible organization, other than volunteer fire departments. In addition, the division may sell expendable, obsolete, or unused motor vehicles owned by the division with a gross weight in excess of 4,000 pounds to an eligible volunteer fire department. The division, with due consideration given to current market prices, shall set the price to be paid by the receiving eligible organization for motor vehicles sold pursuant to this provision: Provided, That the sale price of any motor vehicle sold to an eligible organization may not be less than the "average loan" value, as published in the most recent available eastern edition of the National Automobile Dealers Association (NADA) Official Used Car Guide, if the value is available, unless the fair market value of the vehicle is less than the NADA "average loan" value, in which case the vehicle may be sold for less than the "average loan" value. The fair market value shall be based on a thorough inspection of the vehicle by an employee of the division who shall consider the mileage of the vehicle and the condition of the body, engine, and tires as indicators of its fair market value. If no fair market value is available, the division shall set the price to be paid by the receiving eligible organization with due consideration given to current market prices. The duly authorized representative of the eligible organization, for whom the motor vehicle or other similar surplus equipment is purchased or otherwise obtained, shall cause ownership and proper title to the motor vehicle to be vested only in the official name of the authorized governing body for whom the purchase or transfer was made. The ownership or title, or both, shall remain in the possession of that governing body and be nontransferable for a period of not less than one year from the date of the purchase or transfer. Resale or transfer of ownership of the motor vehicle or equipment prior to an elapsed period of one year may be made only by reason of certified unserviceability.

(e) The division shall report to the Legislative Auditor, semiannually, all sales of commodities or expendable commodities made during the preceding six months to eligible organizations. The report shall include a description of the commodities sold, the price paid by the eligible organization that received the commodities, and to whom each commodity was sold.

(f) The proceeds of the sales or transfers shall be deposited in the State Treasury in the special revenue account created in subsection (a) of this section.

(g)(1) For purposes of this section, "cannibalization" means the removal of parts from one commodity to use in the creation or repair of another commodity.

(2)(A) If the division intends to cannibalize an asset, the division shall document: (i) The commodity identification number; (ii) the commodity’s acquisition date; (iii) the commodity’s acquisition cost; (iv) a description of the commodity; (v) whether the commodity is operable and, if so, how well it operates; (vi) how the division will dispose of the remaining parts of the commodity; and (vii) who will cannibalize the commodity and how the person is qualified to remove and reinstall the parts.

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(B) If the division has immediate plans to use the cannibalized parts, the division shall document for the commodity or commodities that will receive the cannibalized part or parts: (i) The commodity identification number; (ii) the commodity's acquisition date; (iii) the commodity's acquisition cost; (iv) a description of the commodity; (v) whether the commodity is operable; (vi) whether the part restores the commodity to an operable condition; and (vii) the cost of the parts and labor to restore the commodity to an operable condition without cannibalization.

(C) If the division intends to retain the cannibalized parts for future use, it shall document that said parts have been retained for future use.

(D) The division shall develop procedures for the disposal of the residual components of cannibalized property.

(3) Whenever the division disposes of a commodity in a landfill, or by other lawful means of waste disposal, the division shall notate this on the inventory for the commodity and shall document the reasons why it was disposed of in such manner.

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