

# 4237

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1988



# ENROLLED

Com. Sub. for  
HOUSE BILL No. 4237

(By Mr. Speaker, Mr. Chambers, + Del. Swann)



Passed March 4, 1988

In Effect Ninety Days From Passage

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**H. B. 4237**

(By MR. SPEAKER, MR. CHAMBERS, and DELEGATE SWANN)

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[Passed March 4, 1988; in effect ninety days from passage.]

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AN ACT to amend and reenact section nineteen, article two-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating generally to the authority of the commissioner of highways with respect to the sale, lease, exchange or lease of certain real property acquired by the West Virginia department of highways; sale, lease or use of former railroad rights-of-way and those properties which were formerly used as turnpikes and in which the department of highways has a property interest; and permitting those properties to be first sold to abutting property owners without the necessity of public auction.

*Be it enacted by the Legislature of West Virginia:*

That section nineteen, article two-a, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 2A. WEST VIRGINIA COMMISSIONER OF HIGHWAYS.**

**§17-2A-19. Sale, exchange, or lease of real property.**

1     The department of highways, subject to the conditions  
2     herein, may sell, exchange, or lease real property, or any  
3     interest or right therein, held by the department of  
4     highways.

5       When the real property, or any interest or right  
6       therein, is being held for future road purposes, it may  
7       be leased. When the real property, or any part thereof,  
8       or any interest or right therein, is deemed by the  
9       commissioner not necessary, or desirable for present or  
10       presently foreseeable future state road purposes, it may  
11       be exchanged for other real property, or any interest or  
12       right therein, deemed by the commissioner to be  
13       necessary or desirable for present or presently foresee-  
14       able future state road purposes, or it may be sold. In  
15       addition the department may exchange real property, or  
16       any part thereof, or any interest or right therein, even  
17       though it may be necessary or desirable for present or  
18       presently foreseeable future state road purposes, if the  
19       exchange is made for other real property, or any interest  
20       or right therein, in close proximity thereto which the  
21       commissioner deems of equal or superior useful value  
22       for present or presently foreseeable future state road  
23       purposes. In making exchanges the department may  
24       make allowances for differences in the value of the  
25       properties being exchanged and may move or pay the  
26       cost of moving buildings, structures, or appurtenances  
27       in connection with the exchange.

28       Every such sale of real property, or any interest or  
29       right therein or structure thereon, shall be at public  
30       auction in the county in which the real property, or the  
31       greater part thereof in value, is located, and the  
32       department shall advertise, by publication or otherwise,  
33       the time, place, and terms of such sale at least twenty  
34       days prior thereto. The property shall be sold in the  
35       manner which will bring the highest and best price  
36       therefor. The department may reject any or all bids  
37       received at the sale. The commissioner shall keep a  
38       record, open to public inspection, indicating the manner  
39       in which such real property, or any interest or right  
40       therein or structure thereon, was publicly advertised for  
41       sale, the highest bid received therefor and from whom,  
42       the person to whom sold, and payment received therefor.  
43       Such record shall be kept for a period of five years and  
44       may thereafter be destroyed.

45       The commissioner may transfer, sell, or otherwise

46 dispose of those portions of former railroad right-of-way  
47 properties owned by or to be acquired by the depart-  
48 ment of highways and those properties formerly used for  
49 turnpike roads which the commissioner in his sole  
50 discretion shall determine are not necessary or desirable  
51 for present or presently foreseeable future state road  
52 purposes by first offering the same to the principal  
53 abutting landowners without following the procedure  
54 for public auction hereinbefore set forth in this section.

55 The commissioner shall adopt and promulgate rules  
56 in accordance with the provisions of article three,  
57 chapter twenty-nine-a of this code governing and  
58 controlling the making of any leases or sales pursuant  
59 to the provisions of this section, which rules may provide  
60 for the giving of preferential treatment in making leases  
61 to the persons from whom the properties or rights or  
62 interests therein were acquired, or their heirs or assigns  
63 and shall also provide for granting a right of first  
64 refusal to abutting landowners at fair market value in  
65 the sale or lease of former railroad right-of-way  
66 properties and former turnpike roads owned by the  
67 department of highways.

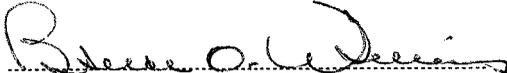
68 The commissioner may insert in any deed or convey-  
69 ance, whether it involves an exchange, lease, or sale,  
70 such conditions as are in the public interest and have  
71 been approved in advance by the governor.

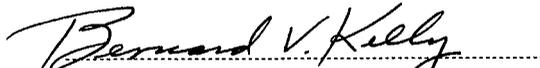
72 All moneys received from the exchange, sale, or lease  
73 of real property, or any right or interest therein, shall  
74 be paid into the state treasury and credited to the state  
75 road fund.

76 Notwithstanding the provisions of this section, no such  
77 property shall be transferred, sold or otherwise disposed  
78 of unless the commissioner finds that such right-of-way  
79 or other property has no significant value to the state  
80 as a hiking trail and does not serve as a link between  
81 two or more state owned properties, except that any  
82 such property that lies within six hundred feet of any  
83 dwelling house may be transferred, sold or otherwise  
84 disposed of without such a finding pursuant to the  
85 provisions of this section.

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The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

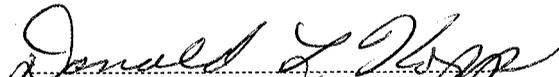
  
Chairman Senate Committee

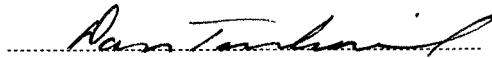
  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within  this the   
day of , 1988.

  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/8/88

Time 4:31 p.m.

RECEIVED

1988 MAR 22 PM 3:43

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE