

section 459b-2 of this title (both together hereinafter in sections 459b to 459b-8 of this title referred to as “such area”). Any property, or interest therein, owned by the Commonwealth of Massachusetts, by any of the towns referred to in section 459b of this title, or by any other political subdivision of said Commonwealth may be acquired only with the concurrence of such owner. Notwithstanding any other provision of law, any Federal property located within such area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the provisions of sections 459b to 459b-8 of this title.

**(b) Use of funds; fair market value**

The Secretary is authorized (1) to use donated and appropriated funds in making acquisitions under sections 459b to 459b-8 of this title, and (2) to pay therefor not more than the fair market value of any acquisitions which he makes by purchase under sections 459b to 459b-8 of this title.

**(c) Exchange of property; cash equalization payments; reports to Congress**

In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property located within such area and convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary within such area. The properties so exchanged shall be approximately equal in fair market value: *Provided*, That the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the values of the properties exchanged.

The Secretary shall report to the Congress on every exchange carried out under authority of sections 459b to 459b-8 of this title within thirty days from its consummation, and each such report shall include a statement of the fair market values of the properties involved and of any cash equalization payment made or received.

**(d) Exchange of property; addition to Cape Cod National Seashore**

The Secretary may convey to the town of Provincetown, Massachusetts, a parcel of real property consisting of approximately 7.62 acres of Federal land within such area in exchange for approximately 11.157 acres of land outside of such area, as depicted on the map entitled “Cape Cod National Seashore Boundary Revision Map”, dated May, 1997, and numbered 609/80,801, to allow for the establishment of a municipal facility to serve the town that is restricted to solid waste transfer and recycling facilities and for other municipal activities that are compatible with National Park Service laws and regulations. Upon completion of the exchange, the Secretary shall modify the boundary of the Cape Cod National Seashore to include the land that has been added.

**(e) “Fair market value” defined; appraisal**

As used in sections 459b to 459b-8 of this title the term “fair market value” shall mean the fair market value as determined by the Secretary, who may in his discretion base his deter-

mination on an independent appraisal obtained by him.

(Pub. L. 87-126, §2, Aug. 7, 1961, 75 Stat. 287; Pub. L. 105-280, §1(a), Oct. 26, 1998, 112 Stat. 2694.)

AMENDMENTS

1998—Subsecs. (d), (e). Pub. L. 105-280 added subsec. (d) and redesignated former subsec. (d) as (e).

**§ 459b-2. Establishment**

**(a) Notice in Federal Register**

As soon as practicable after August 7, 1961, and following the acquisition by the Secretary of an acreage in the area described in section 459b of this title that is in the opinion of the Secretary efficiently administrable to carry out the purposes of sections 459b to 459b-8 of this title, the Secretary shall establish Cape Cod National Seashore by the publication of notice thereof in the Federal Register.

**(b) Distribution of notice and map**

Such notice referred to in subsection (a) of this section shall contain a detailed description of the boundaries of the seashore which shall encompass an area as nearly as practicable identical to the area described in section 459b of this title. The Secretary shall forthwith after the date of publication of such notice in the Federal Register (1) send a copy of such notice, together with a map showing such boundaries, by registered or certified mail to the Governor of the Commonwealth of Massachusetts and to the board of selectmen of each of the towns referred to in section 459b of this title; (2) cause a copy of such notice and map to be published in one or more newspapers which circulate in each of such towns; and (3) cause a certified copy of such notice, a copy of such map, and a copy of sections 459b to 459b-8 of this title to be recorded at the registry of deeds for Barnstable County, Massachusetts.

(Pub. L. 87-126, §3, Aug. 7, 1961, 75 Stat. 288.)

**§ 459b-3. Acquisition by condemnation**

**(a) Right of use and occupancy for residential purposes for life or fixed term of years; exercise of right of election; impairment of interests of lienholders, etc.; right as running with land; transfer, assignment and termination of right; computation of compensation**

(1) The beneficial owner or owners, not being a corporation, of a freehold interest in improved property which the Secretary acquires by condemnation may elect, as a condition to such acquisition, to retain the right of use and occupancy of the said property for noncommercial residential purposes for a term of twenty-five years, or for such lesser time as the said owner or owners may elect at the time of such acquisition.

(2) The beneficial owner or owners, not being a corporation, of a freehold estate in improved property which property the Secretary acquires by condemnation, who held, on September 1, 1959, with respect to such property, an estate of the same nature and quality, may elect, as an alternative and not in addition to whatever right of election he or they might have under