

incompatible with purposes of this subchapter, or which impairs the usefulness and attractiveness of such area, and if it should be so used, that the Secretary may<sup>1</sup> terminate such right. In the event the Secretary exercises his power of termination under this subsection he shall pay to the owner of the right terminated an amount equal to the value of that portion of such right which remained unexpired on the date of such termination.

**(d) Transfer of right to member of immediate family; owner option to terminate; payment by Secretary; "member of the immediate family" defined**

(1) Any owner or occupier of improved property who retains a right of use and occupancy under subsection (b) of this section may convey or lease such right during its existence to a member of such owner or occupier's immediate family for noncommercial residential purposes which are not incompatible with the purposes of this subchapter and which do not impair the usefulness and attractiveness of the area designated for inclusion.

(2) Any owner or occupier of improved property who has retained a right of use and occupancy under subsection (b) of this section may terminate such right at any time, and the Secretary shall pay, within 120 days after the date of such termination, to the owner of the right terminated an amount equal to the value of that portion of such right which remained unexpired on the date of such termination.

(3) As used in this subchapter, the term "member of the immediate family" means spouse, brother, sister, or child, including persons bearing such relationships through adoption, and step-child.

(Pub. L. 91-479, §10, Oct. 21, 1970, 84 Stat. 1079; Pub. L. 97-361, §1, Oct. 22, 1982, 96 Stat. 1720.)

AMENDMENTS

1982—Subsec. (b). Pub. L. 97-361 substituted provisions granting owners and occupiers of improved lakeshore property described in section 460x-10 of this title the right of retention of a compatible residential use for a limited term upon notification of the Secretary and payment for the right retained for former provisions which were redesignated as subsec. (c) and amended.

Subsec. (c). Pub. L. 97-361 redesignated subsec. (b) as (c), and amended it to apply expressly to any instrument evidencing any right of use and occupancy retained by any occupier under this section.

Subsec. (d). Pub. L. 97-361 added subsec. (d).

**§ 460x-10. Improved property**

**(a) General definition**

As used in this subchapter, the term "improved property" means a detached, one-family dwelling, construction of which—

(1) was begun before December 31, 1964, or

(2) for the purposes of section 460x-9(b) or (d) of this title, was begun on or after December 31, 1964, and before October 21, 1970, and has been openly and continuously used, at least during the summer months of each year when similar dwellings in the area are used, as a residential dwelling since such construction

was completed, and with respect to the portion of such period after any acquisition of such property by the United States, by the owner, or a member of the immediate family of the owner, of such dwelling on the date of such acquisition,

together with so much of the land on which the dwelling is situated, such land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the lands so designated. The amount of land so designated shall in every case be at least three acres in area, or all of such lesser acreage as may be held in the same ownership as the dwelling, and in making such designation the Secretary shall take into account the manner of noncommercial residential use in which the dwelling and land have customarily been enjoyed.

**(b) Authorization to exclude beach lands**

The Secretary may exclude from the land designated under subsection (a) of this section any beach or waters on Lake Michigan, together with so much of the land adjoining any such beach or waters as the Secretary may deem necessary for public access thereto. If the Secretary makes such exclusion, an appropriate buffer zone shall be provided between any residence and the public access or beach.

**(c) Authorization to exclude recently improved property; termination, compensation, and notice**

(1) The Secretary may exclude from the category of "improved property" under this subchapter any property described in subsection (a)(2) of this section which the Secretary determines is in an area required for public use or development in the immediate future. In making any such determination the Secretary shall take into account the proximity of such property to any other improved property, the development or public use of the lakeshore and the related timetable therefor, and the anticipated availability in the immediate future of funds related to such development or public use.

(2)(A) With respect to any improved property, as defined in subsection (a)(2) of this section, with respect to which the occupier has retained a right of use and occupancy under section 460x-9(b) of this title, the Secretary may terminate such right 90 days after notifying in writing the occupier, if the Secretary determines that such improved property is needed for public use or development under this subchapter. In making any such determination the Secretary shall take into account the proximity of such property to any other improved property, the development or public use requirements of the lakeshore and related timetable therefor, and the current availability of funds for the proposed public use or development.

(B) The Secretary shall pay to the owner of the right terminated an amount equal to the value of that portion of such right which remained unexpired on the date of such termination.

<sup>1</sup> So in original. Probably should be "may".

(3)(A) The Secretary must, within 60 days after October 22, 1982, notify in writing any owner or occupier of property described in subsection (a)(2) of this section that an option to retain rights with respect to such property exists under section 460x-9(b) of this title, whether such property shall be subject to any action by the Secretary under paragraph (1) of this subsection, the nature of such proposed action, the reasons for such proposed action, and the contemplated timetable therefor.

(B) With respect to any proposed action to be taken under paragraph (2) of this subsection, if the Secretary determines within 60 days after October 22, 1982, after taking into account timetable and funding projections, that, consistent with the General Management Plan dated October 1979, public use or development is anticipated before 1998 for an area containing any improved property described in subsection (a)(2) of this section, the Secretary shall include notice of such determination in any notification under subparagraph (A) of this paragraph. Any failure of the Secretary to so notify an occupier pursuant to this subparagraph shall not preclude the Secretary from taking action under paragraph (2) at some future date.

(Pub. L. 91-479, §11, Oct. 21, 1970, 84 Stat. 1080; Pub. L. 97-361, §2, Oct. 22, 1982, 96 Stat. 1721.)

#### AMENDMENTS

1982—Pub. L. 97-361 designated existing provisions up to the proviso as subsec. (a), added cl. (2), designated existing proviso as subsec. (b), and added subsec. (c).

### § 460x-11. Scenic roads

#### (a) Authority of Secretary for construction, administration, and procurement of land

In order to facilitate visitor travel, provide scenic overlooks for public enjoyment and interpretation of the national lakeshore and related features, and in order to enhance recreational opportunities, the Secretary is authorized to construct and administer as a part of the national lakeshore scenic roads of parkway standards generally lying within Benzie County and within the parkway zone designated on the map specified in section 460x-1(a) of this title. Such scenic roads shall include necessary connections, bridges, and other structural utilities. Notwithstanding any other provision of this subchapter, the Secretary may procure for this purpose land, or interest therein, by donation, purchase with appropriated or donated funds, or otherwise: *Provided*, That land and interest so procured shall not exceed one hundred and fifty acres per mile of scenic road, except that tracts may be procured in their entirety in order to avoid severances. Property so acquired in excess of the acreage limitation provided in this section may be exchanged by the Secretary for any land of approximately equal value authorized for acquisition by this subchapter.

#### (b) Exchange or sale of lands in Leelanau County

Except as provided in subsection (c) of this section, any lands in Leelanau County acquired by the Secretary under this section before October 22, 1982, which are within the parkway zone depicted on the map specified in section 460x-1(a) of this title but which are not within,

or contiguous to, the lakeshore zone as depicted on such map may be exchanged by the Secretary for other lands of approximately equal value in the lakeshore. If the Secretary is unable to effect such an exchange, such lands may be offered for sale to the person who owned such lands immediately before their acquisition by the Secretary. If such previous owner declines such offer, the Secretary may sell such lands to any buyer. Proceeds from any sale under this subsection shall be credited to the account established under section 17 of this Act.

#### (c) Administration of certain lands as Resource Preservation Areas

The Secretary is authorized to obtain and administer, according to the provisions of this section, as a part of the lakeshore as Resource Preservation Areas certain interests in the following lands:

(1) Approximately 600 acres designated as "Miller Hill" on the map numbered 634-91-001, dated September 1982.

(2) Approximately 975 acres as designated as "Bow Lakes" on the map numbered 634-91-002, dated September 1982.

#### (d) Preservation of scenic values in certain lands; use of lands for educational purposes

(1) The Secretary may obtain fee title under subsection (e) of this section to lands described in subsection (c)(1) of this section or easements or other restrictive agreements for the preservation of scenic values in such lands.

(2) The Secretary may obtain fee title under subsection (e) of this section to lands described in subsection (c)(2) of this section, or public access easements or other restrictive agreements consistent with use of such lands for educational purposes and for research and interpretation of natural features.

#### (e) Manner of acquiring fee title or lesser interest in land

(1) Except as provided under paragraph (4), the Secretary may obtain fee title or other lesser interests to lands described in subsection (c) of this section only—

(A) by gift, donation, or bequest;

(B) by purchase from a willing seller under paragraph (2); or

(C) as an exercise of a right of first refusal under paragraph (3).

(2) The Secretary may negotiate with willing sellers for the transfer of fee title to other lesser interests to lands described in subsection (c) of this section. If the Secretary and such willing seller are unable to agree to a fair purchase price, that question may, by mutual consent be submitted to the appropriate United States District Court for adjudication.

(3) If the owner of any lands described in subsection (c) of this section intends to transfer any interest in such lands except by gift, donation, or bequest, such owner must notify the Secretary of such intention. The Secretary shall have 90 days after notification in which to exercise a right of first refusal to match any bona fide offer to obtain such interest under the same terms and conditions as are contained in such offer. If the Secretary has not exercised such right within 90 days, the owner may transfer such interest.