

1963—Pub. L. 88-174, title VI, § 609(a)(2), Nov. 7, 1963, 77 Stat. 329, added item 2682.

1962—Pub. L. 87-651, title I, § 112(d), title II, § 209(b), Sept. 7, 1962, 76 Stat. 512, 524, substituted “\$25,000” for “\$5,000” in item 2672 and added items 2679 to 2681.

1960—Pub. L. 86-500, title V, § 511(2), June 8, 1960, 74 Stat. 187, substituted “Reports to the Armed Services Committees” for “Agreement with Armed Services Committees; reports” in item 2662.

1958—Pub. L. 85-861, § 1(52), Sept. 2, 1958, 72 Stat. 1461, added items 2672 to 2678.

Pub. L. 85-337, § 4(2), Feb. 28, 1958, 72 Stat. 29, added item 2671.

### § 2661. Miscellaneous administrative provisions relating to real property

(a) AVAILABILITY OF OPERATION AND MAINTENANCE FUNDS.—Appropriations for operation and maintenance of the active forces shall be available for the following:

(1) The repair of facilities.

(2) The installation of equipment in public and private plants.

(b) LEASING AND ROAD MAINTENANCE AUTHORITY.—The Secretary of Defense and the Secretary of each military department may provide for the following:

(1) The leasing of buildings and facilities (including the payment of rentals for special purpose space at the seat of Government). Rental for such leases may be paid in advance in connection with—

(A) the conduct of field exercises and maneuvers; and

(B) the administration of the Act of July 9, 1942 (43 U.S.C. 315q).

(2) The maintenance of defense access roads which are certified to the Secretary of Transportation as important to the national defense under the provisions of section 210 of title 23.

(c) PROHIBITION ON NAMING DEPARTMENT OF DEFENSE REAL PROPERTY AFTER MEMBER OF CONGRESS.—(1) Real property under the jurisdiction of the Secretary of Defense or the Secretary of a military department may not be named after, or otherwise officially identified by the name of, any individual who is a Member of Congress at the time the property is so named or identified.

(2) In this subsection:

(A) The term “Member of Congress” includes a Delegate or Resident Commissioner to the Congress.

(B) The term “real property” includes structures, buildings, or other infrastructure of a military installation, roadways and defense access roads, and any other area on the grounds of a military installation.

(d) TREATMENT OF PENTAGON RESERVATION.—In this chapter, the terms “Secretary concerned” and “Secretary of a military department” include the Secretary of Defense with respect to the Pentagon Reservation.

(Added Pub. L. 100-370, § 1(l)(3), July 19, 1988, 102 Stat. 849; amended Pub. L. 108-375, div. B, title XXVIII, § 2821(a)(1), (e)(1), Oct. 28, 2004, 118 Stat. 2129, 2130; Pub. L. 109-163, div. B, title XXVIII, § 2821(d), (e), Jan. 6, 2006, 119 Stat. 3512; Pub. L. 112-81, div. B, title XXVIII, § 2863(a), Dec. 31, 2011, 125 Stat. 1701.)

### HISTORICAL AND REVISION NOTES

Subsection (a) of this section and sections 2241(a) and 2253(b) of this title are based on Pub. L. 98-212, title VII, § 735, Dec. 8, 1983, 97 Stat. 1444, as amended by Pub. L. 98-525, title XIV, §§ 1403(a)(2), 1404, Oct. 19, 1984, 98 Stat. 2621.

Subsection (b) is based on Pub. L. 99-190, § 101(b) [title VIII, § 8005(d), (f)], Dec. 19, 1985, 99 Stat. 1185, 1202.

### PRIOR PROVISIONS

A prior section 2661, act Aug. 10, 1956, ch. 1041, 70A Stat. 147, related to planning and construction of public works projects by military departments, prior to repeal by Pub. L. 97-214, § 7(1), July 12, 1982, 96 Stat. 173, eff. Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date.

### AMENDMENTS

2011—Subsec. (c). Pub. L. 112-81 added subsec. (c).

2006—Subsec. (c). Pub. L. 109-163, § 2821(d), redesignated subsec. (c) as section 2664(b) of this title.

Subsec. (d). Pub. L. 109-163, § 2821(e), added subsec. (d).

2004—Subsecs. (a), (b). Pub. L. 108-375, § 2821(e)(1), inserted headings.

Subsec. (c). Pub. L. 108-375, § 2821(a)(1), added subsec. (c).

### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112-81, div. B, title XXVIII, § 2863(b), Dec. 31, 2011, 125 Stat. 1702, provided that: “The prohibition in subsection (c) of section 2661 of title 10, United States Code, as added by subsection (a), shall apply only with respect to real property of the Department of Defense named after the date of the enactment of this Act [Dec. 31, 2011].”

### PILOT PROGRAM TO PROVIDE ADDITIONAL TOOLS FOR EFFICIENT OPERATION OF MILITARY INSTALLATIONS

Pub. L. 107-107, div. B, title XXVIII, § 2813, Dec. 28, 2001, 115 Stat. 1308, authorized the Secretary of Defense, until Dec. 31, 2005, to carry out a pilot program, known as the “Pilot Efficient Facilities Initiative”, for purposes of determining the potential for increasing the efficiency and effectiveness of the operation of military installations.

### STUDY OF ESTABLISHMENT OF LAND MANAGEMENT AND TRAINING CENTER

Pub. L. 103-337, div. A, title III, § 329, Oct. 5, 1994, 108 Stat. 2715, directed Secretary of the Army to submit to Congress not later than May 1, 1996, a study and report on feasibility and advisability of establishing a center for land management activities and land management training activities of Department of Defense.

### [§ 2661a. Repealed. Pub. L. 97-295, § 1(31)(A), Oct. 12, 1982, 96 Stat. 1296]

Section, added Pub. L. 97-258, § 2(b)(6)(B), Sept. 13, 1982, 96 Stat. 1054, authorized appropriations for advance design of military public works not otherwise authorized and for construction management of foreign government funded projects used primarily by United States armed forces, and required preliminary reports to Congress on military public works whose projected advance costs exceeded a specified level.

The repeal of this section by Pub. L. 97-295 reflected the effect of section 7(2) and (8) of the Military Construction Codification Act (Pub. L. 97-214, July 12, 1982, 96 Stat. 173), which repealed the source statutes of this section (subsec. (a) was based on acts Sept. 28, 1951, ch. 434, § 504, 65 Stat. 364; July 15, 1955, ch. 368, § 512, 69 Stat. 352; Dec. 23, 1981, Pub. L. 97-99, § 902, 95 Stat. 1381 (31 U.S.C. 723); and subsec. (b) was based on acts Sept. 12, 1966, Pub. L. 89-568, § 612, 80 Stat. 756; Dec. 27, 1974, Pub. L. 93-552, § 607, 88 Stat. 1763 (31 U.S.C. 723a)) subsequent

to Apr. 15, 1982, the cut-off date prescribed by section 4(a) of Pub. L. 97-258, section 2(b)(6)(B) of which enacted this section.

**§ 2662. Real property transactions: reports to congressional committees**

(a) GENERAL NOTICE AND WAIT REQUIREMENTS.—(1) The Secretary of a military department or, with respect to a Defense Agency, the Secretary of Defense may not enter into any of the following listed transactions by or for the use of that department until the Secretary concerned submits a report, subject to paragraph (3), to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives:

(A) An acquisition of fee title to any real property, if the estimated price is more than \$750,000.

(B) A lease of any real property to the United States, if the estimated annual rental is more than \$750,000.

(C) A lease, license, or easement of real property owned by the United States (other than a lease or license entered into under section 2667(g) of this title), if the estimated annual fair market rental value of the property is more than \$750,000.

(D) A transfer of real property owned by the United States to another Federal agency or another military department or to a State, if the estimated value is more than \$750,000.

(E) A report of excess real property owned by the United States to a disposal agency, if the estimated value is more than \$750,000.

(F) Any termination or modification by either the grantor or grantee of an existing license or permit of real property owned by the United States to a military department, under which substantial investments have been or are proposed to be made in connection with the use of the property by the military department.

(G) Any transaction or contract action that results in, or includes, the acquisition or use by, or the lease or license to, the United States of real property, if the estimated annual rental or cost for the use of the real property is more than \$750,000.

(H) Any transaction or contract action for the provision and operation of energy production facilities on real property under the jurisdiction of the Secretary of a military department, as authorized by section 2922a(a)(2) of this title, if the term of the transaction or contract exceeds 20 years.

(2) If a transaction covered by subparagraph (A) or (B) of paragraph (1) is part of a project, the report shall include a summary of the general plan for that project, including an estimate of the total cost of the lands to be acquired or leases to be made. The report required by this subsection concerning any report of excess real property described in subparagraph (E) of paragraph (1) shall contain a certification by the Secretary concerned that he has considered the feasibility of exchanging such property for other real property authorized to be acquired for military purposes and has determined that the property proposed to be declared excess is not suitable for such purpose.

(3) The authority of the Secretary concerned to enter into a transaction described in paragraph (1) commences only after—

(A) the end of the 30-day period beginning on the first day of the month with respect to which the report containing the facts concerning such transaction, and all other such proposed transactions for that month, is submitted under paragraph (1); or

(B) the end of the 14-day period beginning on the first day of that month when a copy of the report is provided in an electronic medium pursuant to section 480 of this title on or before the first day of that month.

(4) The report for a month under this subsection may not be submitted later than the first day of that month.

(b) ADDITIONAL REPORTING REQUIREMENTS REGARDING LEASES OF REAL PROPERTY OWNED BY THE UNITED STATES.—(1) In the case of a proposed lease, license, or easement of real property owned by the United States covered by paragraph (1)(C) of subsection (a), the Secretary concerned shall comply with the notice-and-wait requirements of paragraph (3) of such subsection before—

(A) issuing a contract solicitation or other lease offering with regard to the transaction; and

(B) providing public notice regarding any meeting to discuss a proposed contract solicitation with regard to the transaction.

(2) The report under paragraph (3) of subsection (a) shall include the following with regard to a proposed transaction covered by paragraph (1)(C) of such subsection:

(A) A description of the proposed transaction, including the proposed duration of the lease, license, or easement.

(B) A description of the authorities to be used in entering into the transaction.

(C) A statement of the scored cost of the entire transaction, determined using the scoring criteria of the Office of Management and Budget.

(D) A determination that the property involved in the transaction is not excess property, as required by section 2667(a)(3) of this title, including the basis for the determination.

(E) A determination that the proposed transaction is directly compatible with the mission of the military installation or Defense Agency at which the property is located and a description of the anticipated long-term use of the property at the conclusion of the lease or license.

(F) A description of the requirements or conditions within the contract solicitation or other lease offering for the person making the offer to address taxation issues, including payments-in-lieu-of taxes, and other development issues related to local municipalities.

(G) If the proposed lease involves a project related to energy production, a certification by the Secretary of Defense that the project, as it will be specified in the contract solicitation or other lease offering, is consistent with the Department of Defense performance goals and plan required by section 2911 of this title.