

Subsec. (c). Pub. L. 109-163, § 2821(a)(2)-(5), redesignated pars. (1) and (2) of subsec. (a) and subsecs. (b) and (d) of section 2672 of this title as pars. (1), (2), (3), and (4), respectively, of subsec. (c) of this section, inserted subsec. heading, in par. (3), substituted "This subsection" for "This section", "paragraph (1)" for "subsection (a)(1)", and "paragraph (2)" for "subsection (a)(2)", in par. (4), substituted "this subsection" for "this section", and struck out headings for former subsecs. (a), (b), and (d) of section 2672.

Pub. L. 109-163, § 2821(a)(1)(D), redesignated subsec. (c) as (b).

Subsec. (d). Pub. L. 109-163, § 2821(a)(6)-(9), redesignated subsecs. (a), (c), and (b) of section 2672a of this title as pars. (1), (2), and (3), respectively, of subsec. (d) of this section, inserted subsec. heading, in par. (1), redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, in par. (2), substituted "this subsection" for "this section", and in par. (3), substituted "this subsection" for "this section" in first sentence and struck out second sentence which read as follows: "The authority to acquire an interest in land under this section includes authority to make surveys and acquire interests in land (including temporary use), by gift, purchase, exchange of land owned by the United States, or otherwise."

Pub. L. 109-163, § 2821(a)(1)(E), struck out subsec. (d) which read as follows: "The Secretary of the military department concerned may accept for the United States a gift of any interest in land, including temporary use, for any purpose named in subsection (a)."

Subsec. (e). Pub. L. 109-163, § 2821(a)(10), (11), redesignated subsec. (b) of section 2676 of this title as subsec. (e) of this section and inserted heading.

Subsecs. (f), (g). Pub. L. 109-364, § 2821(b)(2), added subsecs. (f) and (g).

1958—Subsec. (a). Pub. L. 85-861 struck out provisions requiring proceedings under this subsection to be in accordance with the law of the State in which the suit is brought.

#### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111-383, div. A, title X, § 1075(g), Jan. 7, 2011, 124 Stat. 4376, provided that amendment by section 1075(g)(6) is effective as of Oct. 17, 2006, and as if included in Pub. L. 109-364 as enacted.

#### EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-861 effective Aug. 10, 1956, see section 33(g) of Pub. L. 85-861, set out as a note under section 101 of this title.

#### SENSE OF CONGRESS

Pub. L. 109-364, div. B, title XXVIII, § 2821(a), Oct. 17, 2006, 120 Stat. 2473, provided that: "It is the sense of Congress that the Secretary of Defense, when acquiring land for military purposes, should—

"(1) make every effort to acquire the land by means of purchases from willing sellers; and

"(2) employ condemnation, eminent domain, or seizure procedures only as a measure of last resort in cases of compelling national security requirements or at the request of the seller."

### § 2664. Limitations on real property acquisition

(a) **AUTHORIZATION FOR ACQUISITION REQUIRED.**—No military department may acquire real property not owned by the United States unless the acquisition is expressly authorized by law. The foregoing limitation shall not apply to the acceptance by a military department of real property acquired under the authority of the Administrator of General Services to acquire property by the exchange of Government property pursuant to subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(b) **COMMISSIONS ON LAND PURCHASE CONTRACTS.**—The maximum amount payable as a commission on a contract for the purchase of land from funds appropriated for the Department of Defense is two percent of the purchase price.

(c) **COST LIMITATIONS.**—(1) Except as provided in paragraph (2), the cost authorized for a land acquisition project may be increased by not more than 25 percent of the amount appropriated for the project by Congress or 200 percent of the amount specified by law as the maximum amount for a minor military construction project, whichever is lesser, if the Secretary concerned determines (A) that such an increase is required for the sole purpose of meeting unusual variations in cost, and (B) that such variations in cost could not have been reasonably anticipated at the time the project was originally approved by Congress.

(2) Until subsection (d) is complied with, a land acquisition project may not be placed under contract if, based upon the agreed price for the land or, in the case of land to be acquired by condemnation, the amount to be deposited with the court as just compensation for the land—

(A) the scope of the acquisition, as approved by Congress, is proposed to be reduced by more than 25 percent; or

(B) the agreed price for the land or, in the case of land to be acquired by condemnation, the amount to be deposited with the court as just compensation for the land, exceeds the amount appropriated for the project by more than (i) 25 percent, or (ii) 200 percent of the amount specified by law as the maximum amount for a minor military construction project, whichever is lesser.

(d) **CONGRESSIONAL NOTIFICATION.**—The limitations on reduction in scope or increase in cost of a land acquisition in subsection (c) do not apply if the reduction in scope or the increase in cost, as the case may be, is approved by the Secretary concerned and a written notification of the facts relating to the proposed reduced scope or increased cost (including a statement of the reasons therefor) is submitted by the Secretary concerned to the congressional defense committees. A contract for the acquisition may then be awarded only after a period of 21 days elapses from the date the notification is received by the committees or, if over sooner, a period of 14 days elapses from the date on which a copy of that notification is provided in an electronic medium pursuant to section 480 of this title.

(e) **PAYMENT OF JUDGEMENTS AND SETTLEMENTS.**—The Secretary concerned shall promptly pay any deficiency judgment against the United States awarded by a court in an action for condemnation of any interest in land or resulting from a final settlement of an action for condemnation of any interest in land. Payments under this subsection may be made from funds available to the Secretary concerned for military construction projects and without regard to the limitations of subsections (c) and (d).

(Added Pub. L. 85-861, § 1(51), Sept. 2, 1958, 72 Stat. 1460, § 2676; amended Pub. L. 93-166, title VI, § 608(2), Nov. 29, 1973, 87 Stat. 682; Pub. L.

97-214, §5, July 12, 1982, 96 Stat. 170; Pub. L. 98-407, title VIII, §802, Aug. 28, 1984, 98 Stat. 1519; Pub. L. 99-661, div. A, title XIII, §1343(a)(17)(A), Nov. 14, 1986, 100 Stat. 3993; Pub. L. 102-190, div. B, title XXVIII, §2870(1), Dec. 5, 1991, 105 Stat. 1562; Pub. L. 107-217, §3(b)(14), Aug. 21, 2002, 116 Stat. 1296; Pub. L. 107-314, div. A, title X, §1062(a)(11), Dec. 2, 2002, 116 Stat. 2650; Pub. L. 108-136, div. A, title X, §1031(a)(30), Nov. 24, 2003, 117 Stat. 1600; Pub. L. 108-375, div. A, title X, §1084(b)(4), Oct. 28, 2004, 118 Stat. 2061; renumbered §2664 and amended Pub. L. 109-163, div. B, title XXVIII, §2821(a)(10), (b)-(d), Jan. 6, 2006, 119 Stat. 3512; Pub. L. 111-350, §5(b)(45), Jan. 4, 2011, 124 Stat. 3846.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2676 .....	[Uncodified].	July 27, 1954, ch. 579, §501(b) (less provisos), 68 Stat. 560.

The word “property” is substituted for the word “estate”. The words “not owned by the United States” are substituted for the words “not in Federal ownership”. The words “or shall be” are omitted as surplusage.

#### CODIFICATION

The text of section 2661(c) of this title, which was transferred to this section and redesignated subsec. (b) by Pub. L. 109-163, §2821(d), was based on Pub. L. 108-375, div. B, title XXVIII, §2821(a)(1), Oct. 28, 2004, 118 Stat. 2129.

#### PRIOR PROVISIONS

A prior section 2664, acts Aug. 10, 1956, ch. 1041, 70A Stat. 148; Pub. L. 85-861, §33(a)(15), Sept. 2, 1958, 72 Stat. 1565; Pub. L. 96-513, title V, §511(90), Dec. 12, 1980, 94 Stat. 2928; Pub. L. 97-31, §12(3)(A), Aug. 6, 1981, 95 Stat. 153; Pub. L. 97-295, §1(32), Oct. 12, 1982, 96 Stat. 1296; Pub. L. 100-26, §7(d)(6), Apr. 21, 1987, 101 Stat. 281, related to acquisition of property for lumber production, prior to repeal by Pub. L. 108-375, div. B, title XXVIII, §2821(b), Oct. 28, 2004, 118 Stat. 2129.

#### AMENDMENTS

2011—Subsec. (a). Pub. L. 111-350, which directed substitution “division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41” for “title III of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 251 et seq.)”, was executed by making the substitution for “title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)” to reflect the probable intent of Congress.

2006—Pub. L. 109-163, §2821(c), renumbered section 2676 of this title as this section and substituted “Limitations on real property acquisition” for “Acquisition: limitation” in section catchline.

Subsec. (a). Pub. L. 109-163, §2821(b)(1), inserted heading and struck out “, as amended” after “Federal Property and Administrative Services Act of 1949” in text.

Subsec. (b). Pub. L. 109-163, §2821(d), redesignated subsec. (c) of section 2661 of this title as subsec. (b) of this section.

Pub. L. 109-163, §2821(a)(10), transferred subsec. (b) to section 2663 of this title.

Subsec. (c). Pub. L. 109-163, §2821(b)(2)(A), inserted heading.

Subsec. (c)(2). Pub. L. 109-163, §2821(b)(2)(B), substituted “Until subsection (d) is complied with, a land” for “A land” in introductory provisions and “lesser.” for “lesser,” in subpar. (B) and struck out concluding provisions which read “until subsection (d) is complied with.”

Subsec. (d). Pub. L. 109-163, §2821(b)(3), inserted heading.

Subsec. (e). Pub. L. 109-163, §2821(b)(4), inserted heading.

2004—Subsec. (d). Pub. L. 108-375 substituted “congressional defense committees” for “appropriate committees of Congress”.

2003—Subsec. (d). Pub. L. 108-136 inserted before period at end “or, if over sooner, a period of 14 days elapses from the date on which a copy of that notification is provided in an electronic medium pursuant to section 480 of this title”.

2002—Subsec. (a). Pub. L. 107-314 inserted opening parenthesis before “41 U.S.C.”.

Pub. L. 107-217 inserted “subtitle I of title 40 and title III of” before “the Federal Property and Administrative Services Act of 1949” and substituted “41 U.S.C. 251 et seq.” for “(40 U.S.C. 471 et seq.)”.

1991—Subsec. (d). Pub. L. 102-190 struck out “(1)” after “be awarded only” and “, or (2) upon the approval of those committees, if before the end of that period each such committee approves the proposed reduced scope or increased cost” before period at end.

1986—Subsec. (c)(2)(B). Pub. L. 99-661 amended generally language of subpar. (B) before “exceeds the amount”. See 1984 Amendment note below.

1984—Subsec. (c)(2). Pub. L. 98-407, §802(1), inserted “or, in the case of land to be acquired by condemnation, the amount to be deposited with the court as just compensation for the land” in provisions preceding subpar. (A).

Subsec. (c)(2)(B). Pub. L. 98-407, §802(2), inserted “or, in the case of land to be acquired by condemnation, the amount to be deposited with the court as just compensation for the land.”. Insertion of new language following “the agreed price for the land” was executed to text notwithstanding directory language of Pub. L. 98-407 that made a reference to a nonexistent comma following “the agreed price for the land”. See 1986 Amendment note above.

Subsec. (e). Pub. L. 98-407, §802(3), added subsec. (e). 1982—Pub. L. 97-214 designated existing provisions as subsec. (a) and added subssecs. (b) to (d).

1973—Pub. L. 93-166 made limitation inapplicable to property acquired under authority of Administrator of General Services to acquire property by exchange of Government property.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-661, div. A, title XIII, §1343(a)(17)(B), Nov. 14, 1986, 100 Stat. 3993, provided that: “The amendment made by subparagraph (A) [amending this section] shall take effect as if included in the enactment of section 802(2) of the Military Construction Authorization Act, 1985 (Public Law 98-407; 98 Stat. 1519) [amending this section].”

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-214 effective 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, see section 12(a) of Pub. L. 97-214, set out as an Effective Date note under section 2801 of this title.

#### § 2665. Sale of certain interests in land; logs

(a) The President, through an executive department, may sell to any person or foreign government any interest in land that is acquired for the production of lumber or timber products, except land under the control of the Department of the Army or the Department of the Air Force.

(b) The President, through an executive department, may sell to any person or foreign government any forest products produced on land owned or leased by a military department or the Department in which the Coast Guard is operating.

(c) Sales under subsection (a) or (b) shall be at prices determined by the President acting through the selling agency.