

In subsection (b), the words “Territory, Puerto Rico, or the District of Columbia” are inserted to reflect 50:886(c).

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-106, §1501(37)(A), substituted “18233(a)(1)” for “2233(a)(1)”.

Subsec. (b). Pub. L. 104-106, §1501(37)(B), substituted “18233(a)” for “2233(a)”.

1994—Pub. L. 103-337, §1664(b)(2), renumbered section 2237 of this title as this section.

Subsec. (a). Pub. L. 103-337, §1664(b)(9)(A), which directed amendment of subsec. (a) by substituting “paragraph (2), (3), or (4) of section 18233(a)” for “section 2233(a)(2), (3) and (4)”, could not be executed because the words “section 2233(a)(2), (3) and (4)” did not appear subsequent to intervening amendment by Pub. L. 103-337, §2852(a). See below.

Pub. L. 103-337, §2852(a), substituted “under section 2233(a)(1)” for “under any provision of this chapter except section 2233(a)(2), (3), and (4)”.

Subsec. (b). Pub. L. 103-337, §1664(b)(9)(B), which directed amendment of subsec. (b) by substituting “paragraph (2), (3), or (4) of section 18233(a)” for “section 2233(a)(2), (3) or (4)”, could not be executed because the words “section 2233(a)(2), (3) or (4)” did not appear subsequent to intervening amendment by Pub. L. 103-337, §2852(b). See below.

Pub. L. 103-337, §2852(b), substituted “paragraph (2), (3), (4), (5), or (6) of section 2233(a)” for “section 2233(a)(2), (3), or (4)”.

1982—Subsec. (b). Pub. L. 97-214 struck out “or Territory, Puerto Rico, or the District of Columbia” after “facilities in a State”.

1966—Subsec. (a). Pub. L. 89-718 substituted “the head of such office or agency in the Department of the Navy as the Secretary of the Navy may designate” for “the Chief of the Bureau of Yards and Docks of the Navy”.

1958—Pub. L. 85-861 inserted “: compliance with State law” in section catchline.

Subsec. (a). Pub. L. 85-861 designated existing provisions as subsec. (a) and substituted “under any provision of this chapter except section 2233(a)(2), (3), and (4) of this title” for “under this chapter”.

Subsec. (b). Pub. L. 85-861 added subsec. (b).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104-106, set out as a note under section 113 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 1664(b)(2), (9) of Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

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.

§ 18238. Army National Guard of United States; Air National Guard of United States: limitation on relocation of units

A unit of the Army National Guard of the United States or the Air National Guard of the United States may not be relocated or withdrawn under this chapter without the consent of the governor of the State or, in the case of the District of Columbia, the commanding general of the National Guard of the District of Columbia.

(Aug. 10, 1956, ch. 1041, 70A Stat. 123, §2238; Pub. L. 85-861, §1(43), Sept. 2, 1958, 72 Stat. 1457; Pub. L. 97-214, §3(d)(4), July 12, 1982, 96 Stat. 170; renumbered §18238, Pub. L. 103-337, div. A, title XVI, §1664(b)(2), Oct. 5, 1994, 108 Stat. 3010.)

HISTORICAL AND REVISION NOTES
1956 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2238	50:883(b).	Sept. 11, 1950, ch. 945, §4(b), 64 Stat. 830.

The words “from any community or area” are omitted as surplusage. The word “relocated” is substituted for the words “location * * * be changed”. The words “Territory, or Puerto Rico, or the commanding general of the National Guard of the District of Columbia” are inserted to reflect 50:886(b), since the source statute applied to the District of Columbia and there is no “governor” of the District of Columbia. The words “as the case may be” are substituted for the words “within which such unit is situated”. The words “with regard to such withdrawal or change of location” are omitted as surplusage.

1958 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2238	50:883(b).	Aug. 9, 1955, ch. 662, §1(c), 69 Stat. 593.

The words “shall have been consulted” and “such withdrawal or change of location” are omitted as surplusage.

AMENDMENTS

1994—Pub. L. 103-337 renumbered section 2238 of this title as this section.

1982—Pub. L. 97-214 substituted “or, in the case of the District of Columbia, the commanding general of the National Guard of the District of Columbia” for “or Territory, or Puerto Rico, or the commanding general of the District of Columbia, as the case may be”.

1958—Pub. L. 85-861 required the consent of the governor, or the commanding general of the National Guard of the District of Columbia, prior to relocation or withdrawal.

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.

§ 18239. Waiver of certain restrictions

(a) The Secretary of Defense and the Secretary of each military department may make expenditures and contributions under section 18233 of this title without regard to section 3324(a) and (b) of title 31.

(b) Authority provided by law to place permanent or temporary improvements on land under section 18233 of this title may be exercised on land not owned by the United States—

(1) before title to the land on which the improvement is located (or is to be located) is approved under section 3111 of title 40; and

(2) even though the land will be held in other than a fee simple interest in a case in which the Secretary of the military department concerned determines that the interest to be acquired in the land is sufficient for the purposes of the project.

(Added Pub. L. 97-214, §3(b)(1), July 12, 1982, 96 Stat. 169, §2239; amended Pub. L. 97-295, §1(23), Oct. 12, 1982, 96 Stat. 1290; Pub. L. 97-321, title VIII, §805(a)(2), Oct. 15, 1982, 96 Stat. 1573; renumbered §18239 and amended Pub. L. 103-337, div. A, title XVI, §1664(b)(2), (10), Oct. 5, 1994, 108 Stat. 3010, 3011; Pub. L. 107-217, §3(b)(42), Aug. 21, 2002, 116 Stat. 1298.)

AMENDMENTS

2002—Subsec. (b)(1). Pub. L. 107-217 substituted “section 3111 of title 40” for “section 355 of the Revised Statutes (40 U.S.C. 255)”.

1994—Pub. L. 103-337, §1664(b)(2), renumbered section 2239 of this title as this section.

Subsecs. (a), (b). Pub. L. 103-337, §1664(b)(10), substituted “18233” for “2233”.

1982—Subsec. (a). Pub. L. 97-295 substituted “section 3324(a) and (b) of title 31” for “section 3648 of the Revised Statutes (31 U.S.C. 529)”.

Subsec. (b). Pub. L. 97-321, in introductory text, substituted “on land” for “on lands” and inserted “on land not owned by the United States”; redesignated former cl. (1) as par. (1); added par. (2) and struck out former cl. (2) “even though the land is held temporarily”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

EFFECTIVE DATE

Section 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 a note under section 2801 of this title.

§ 18240. Acquisition of facilities by exchange

(a) EXCHANGE AUTHORITY.—In addition to the acquisition authority provided by section 18233 of this title, the Secretary of Defense may authorize the Secretary of a military department to acquire a facility, or addition to an existing facility, needed to satisfy military requirements for a reserve component by carrying out an exchange of an existing facility under the control of that Secretary through an agreement with an Executive agency (as defined in section 105 of title 5), the United States Postal Service, or a State, local government, local authority, or private entity. The acquisition of a facility or an addition to an existing facility under this section may include the acquisition of utilities, equipment, and furnishings for the facility.

(b) FACILITIES ELIGIBLE FOR EXCHANGE.—Only a facility of a reserve component that is not excess property (as defined in section 102(3) of title 40) may be exchanged using the authority provided by this section.

(c) EQUAL VALUE EXCHANGE.—In any exchange carried out using the authority provided by this section, the value of the replacement facility, or addition to an existing facility, including any utilities, equipment, and furnishings, to be acquired by the United States shall be at least equal to the fair market value of the facility conveyed by the United States under the agreement. If the values are unequal, the values may not be equalized by any payment of cash consideration by either party to the agreement.

(d) REQUIREMENTS FOR REPLACEMENT FACILITIES.—The Secretary of a military department

may not accept a replacement facility, or addition to an existing facility, to be acquired by the United States in an exchange carried out using the authority provided by this section until that Secretary determines that the facility or addition—

(1) is complete and usable, fully functional, and ready for occupancy;

(2) satisfies all operational requirements; and

(3) meets all applicable Federal, State, and local requirements relating to health, safety, fire, and the environment.

(e) CONSULTATION REQUIREMENTS.—The Secretary of a military department authorized to enter into an agreement under subsection (a) to convey an existing facility under the control of that Secretary by exchange shall consult with representatives of other reserve components to evaluate—

(1) the value of using the facility to meet the military requirements of another reserve component, instead of conveying the facility under this section; and

(2) the feasibility of using the conveyance of the facility to acquire a facility, or an addition to an existing facility, that would be jointly used by more than one reserve component or unit.

(f) ADVANCE NOTICE OF PROPOSED EXCHANGE.—

(1) When a decision is made to enter into an agreement under subsection (a) to exchange a facility using the authority provided by this section, the Secretary of the military department authorized to enter into the agreement shall submit to the congressional defense committees a report on the proposed agreement. The report shall include the following:

(A) A description of the agreement, including the terms and conditions of the agreement, the parties to be involved in the agreement, the origin of the proposal that lead to the agreement, the intended use of the facility to be conveyed by the United States under the agreement, and any costs to be incurred by the United States to make the exchange under the agreement.

(B) A description of the facility to be conveyed by the United States under the agreement, including the current condition and fair market value of the facility, and a description of the method by which the fair market value of the facility was determined.

(C) Information on the facility, or addition to an existing facility, to be acquired by the United States under the agreement and the intended use of the facility or addition, which shall meet requirements for information provided to Congress for military construction projects to obtain a similar facility or addition to an existing facility.

(D) A certification that the Secretary complied with the consultation requirements under subsection (e).

(E) A certification that the conveyance of the facility under the agreement is in the best interests of the United States and that the Secretary used competitive procedures to the maximum extent practicable to protect the interests of the United States.