

sources" for "Use of Armed Forces facilities" in item 5011, and added item 5011A.

1979—Pub. L. 96-22, title III, §301(c), June 13, 1979, 93 Stat. 61, substituted "ACQUISITION AND OPERATION OF MEDICAL FACILITIES" for "PROVISIONS RELATING TO HOSPITALS AND HOMES" in heading for subchapter I, substituted "Definitions" for "Hospital and domiciliary facilities" in item 5001, "Acquisition of medical facilities" for "Construction and repair of buildings" in item 5002, "Authority to construct and alter, and acquire sites for, medical facilities" for "Use of Armed Forces facilities" in item 5003, "Congressional approval of certain medical facility acquisitions" for "Garages and parking facilities" in item 5004, "Structural requirements" for "Acceptance of certain property" in item 5005, "Construction contracts" for "Property formerly owned by National Home for Disabled Volunteer Soldiers" in item 5006, and "Reports to congressional committees" for "Partial relinquishment of legislative jurisdiction" in item 5007, added items 5008 to 5015, and redesignated former items 5011 to 5014 as 5021 to 5024, respectively.

1977—Pub. L. 95-62, §4(c), July 5, 1977, 91 Stat. 263, substituted "DOMICILIARY, NURSING HOME, AND HOSPITAL CARE" for "NURSING HOME CARE" in heading for subchapter III.

1976—Pub. L. 94-581, title I, §115(b), Oct. 21, 1976, 90 Stat. 2853, substituted "health services development activities carried out under the National Health Planning and Resources Development Act of 1974" for "programs carried out under the Heart Disease, Cancer, and Stroke Amendments of 1965" in item 5056.

1973—Pub. L. 93-82, title III, §302(3), Aug. 2, 1973, 87 Stat. 195, added item 5007.

1966—Pub. L. 89-785, title II, §§201(b), 202(c), 2, Nov. 7, 1966, 80 Stat. 1372, 1373, 1376, substituted "Garages and parking facilities" for "Garages on hospital and domiciliary reservations" in item 5004, inserted "and to negotiate for common services" in item 5012, and added heading for subchapter IV and items 5051 to 5056 and 5075.

1964—Pub. L. 88-450, §4(b), Aug. 19, 1964, 78 Stat. 503, added heading for subchapter III and items 5031 to 5037.

#### SUBCHAPTER I—ACQUISITION AND OPERATION OF MEDICAL FACILITIES

##### § 8101. Definitions

For the purposes of this subchapter:

(1) The term "alter", with respect to a medical facility, means to repair, remodel, improve, or extend such medical facility.

(2) The terms "construct" and "alter", with respect to a medical facility, include such engineering, architectural, legal, fiscal, and economic investigations and studies and such surveys, designs, plans, construction documents, specifications, procedures, and other similar actions as are necessary for the construction or alteration, as the case may be, of such medical facility and as are carried out after the completion of the advanced planning (including the development of project requirements and design development) for such facility.

(3) The term "medical facility" means any facility or part thereof which is, or will be, under the jurisdiction of the Secretary for the provision of health-care services (including hospital, nursing home, or domiciliary care or medical services), including any necessary building and auxiliary structure, garage, parking facility, mechanical equipment, trackage facilities leading thereto, abutting sidewalks, accommodations for attending personnel, and recreation facilities associated therewith.

(4) The term "committee" means the Committee on Veterans' Affairs of the House of Rep-

resentatives or the Committee on Veterans' Affairs of the Senate, and the term "committees" means both such committees.

(Added Pub. L. 96-22, title III, §301(a), June 13, 1979, 93 Stat. 55, §5001; renumbered §8101, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102-83, §4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 104-262, title II, §207(a), Oct. 9, 1996, 110 Stat. 3190.)

#### AMENDMENTS

1996—Par. (2). Pub. L. 104-262 substituted "construction documents" for "working drawings" and "design development" for "preliminary plans".

1991—Pub. L. 102-40 renumbered section 5001 of this title as this section.

Par. (3). Pub. L. 102-83 substituted "Secretary" for "Administrator".

#### EFFECTIVE DATE

Pub. L. 96-22, title III, §302, June 13, 1979, 93 Stat. 62, provided that:

"(a) Except as provided in subsection (b) of this section, the amendments made by section 301 [enacting this subchapter, redesignating sections 5011 to 5014 of this title as sections 5021 to 5024 [now 8121 to 8124], respectively, and amending section 5022 [now 8122] of this title as so redesignated] shall take effect on October 1, 1979.

"(b)(1) The amendments made by section 301 shall not apply with respect to the acquisition, construction, or alteration of any medical facility (as defined in section 5001(3) [now 8101(3)] of title 38, United States Code, as amended by section 301(a) of this Act) if such acquisition, construction, or alteration (not including exchange) was approved before October 1, 1979, by the President.

"(2) The provisions of [former] section 5007(a) of title 38, United States Code, as amended by section 301(a) of this Act, shall take effect on the date of the enactment of this Act [June 13, 1979]."

##### § 8102. Acquisition of medical facilities

(a) The Secretary shall provide medical facilities for veterans entitled to hospital, nursing home, or domiciliary care or medical services under this title.

(b) No medical facility may be constructed or otherwise acquired or altered except in accordance with the provisions of this subchapter.

(c) In carrying out this subchapter, the Secretary—

(1) shall provide for the construction and acquisition of medical facilities in a manner that results in the equitable distribution of such facilities throughout the United States, taking into consideration the comparative urgency of the need for the services to be provided in the case of each particular facility; and

(2) shall give due consideration to excellence of architecture and design.

(d) In considering the need for any project for the construction, alteration, or acquisition (other than by exchange) of a medical facility which is expected to involve a total expenditure of more than \$2,000,000, the Secretary shall give consideration to the sharing of health-care resources with the Department of Defense under section 8111 of this title as an alternative to all or part of such project.

(Added Pub. L. 96-22, title III, §301(a), June 13, 1979, 93 Stat. 55, §5002; amended Pub. L. 99-576,

title II, § 221(a), Oct. 28, 1986, 100 Stat. 3259; renumbered § 8102 and amended Pub. L. 102-40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102-54, § 14(f)(2), June 13, 1991, 105 Stat. 287; Pub. L. 102-83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

#### AMENDMENTS

1991—Pub. L. 102-40, § 402(b)(1), renumbered section 5002 of this title as this section.

Subsecs. (a), (c). Pub. L. 102-83 substituted "Secretary" for "Administrator".

Subsec. (d). Pub. L. 102-83 substituted "Secretary" for "Administrator".

Pub. L. 102-54 amended subsec. (d) as in effect immediately before the enactment of Pub. L. 102-40 by substituting "section 5011" for "section 5001".

Pub. L. 102-40, § 402(d)(1), amended subsec. (d), as amended by Pub. L. 102-54, by substituting "8111" for "5011". See above.

1986—Subsec. (d). Pub. L. 99-576 added subsec. (d).

### § 8103. Authority to construct and alter, and to acquire sites for, medical facilities

(a) Subject to section 8104 of this title, the Secretary—

(1) may construct or alter any medical facility and may acquire, by purchase, lease, condemnation, donation, exchange, or otherwise, such land or interests in land as the Secretary considers necessary for use as the site for such construction or alteration;

(2) may acquire, by purchase, lease, condemnation, donation, exchange, or otherwise, any facility (including the site of such facility) that the Secretary considers necessary for use as a medical facility; and

(3) in order to assure compliance with section 8110(a)(2) of this title, in the case of any outpatient medical facility for which it is proposed to lease space and for which a qualified lessor and an appropriate leasing arrangement are available, shall execute a lease for such facility within 12 months after funds are made available for such purpose.

(b) Whenever the Secretary considers it to be in the interest of the United States to construct a new medical facility to replace an existing medical facility, the Secretary (1) may demolish the existing facility and use the site on which it is located for the site of the new medical facility, or (2) if in the judgment of the Secretary it is more advantageous to construct such medical facility on a different site in the same locality, may exchange such existing facility and the site of such existing facility for the different site.

(c) Whenever the Secretary determines that any site acquired for the construction of a medical facility is not suitable for that purpose, the Secretary may exchange such site for another site to be used for that purpose or may sell such site.

(d)(1) The Secretary may provide for the acquisition of not more than three facilities for the provision of outpatient services or nursing home care through lease-purchase arrangements on real property under the jurisdiction of the Department of Veterans Affairs.

(2)(A) In carrying out this subsection and notwithstanding any other provision of law, the Secretary may lease, with or without compensation and for a period of not to exceed 35 years,

to another party any of the real property described in paragraph (1) of this subsection.

(B) Such real property shall be used as the site of a facility referred to in paragraph (1) of this subsection—

(i) constructed and owned by the lessee of such real property; and

(ii) leased under paragraph (3)(A) of this subsection to the Department for such use and for such other activities as the Secretary determines are appropriate.

(3)(A) The Secretary may enter into a lease for the use of any facility described in paragraph (2)(B) of this subsection for not more than 35 years under such terms and conditions as may be in the best interests of the Department.

(B) Each agreement to lease a facility under subparagraph (A) of this paragraph shall include a provision that—

(i) the obligation of the United States to make payments under the agreement is subject to the availability of appropriations for that purpose; and

(ii) the ownership of such facility shall vest in the United States at the end of such lease.

(4)(A) The Secretary may sublease any space in such a facility to another party at a rate not less than—

(i) the rental rate paid by the Secretary for such space under paragraph (3) of this subsection; plus

(ii) the amount the Secretary pays for the costs of administering such facility (including operation, maintenance, utility, and rehabilitation costs) which are attributable to such space.

(B) In any such sublease, the Secretary shall include such terms relating to default and non-performance as the Secretary considers appropriate to protect the interests of the United States.

(5) The Secretary shall use the receipts of any payment for the lease of real property under paragraph (2) for the payment of the lease of a facility under paragraph (3).

(6) The authority to enter into an agreement under this subsection—

(A) shall not take effect until the Secretary has entered into agreements under section 316 of this title to carry out at least three collocations; and

(B) shall expire on October 1, 1993.

(Added Pub. L. 96-22, title III, § 301(a), June 13, 1979, 93 Stat. 56, § 5003; amended Pub. L. 101-237, title VI, § 603(b), Dec. 18, 1989, 103 Stat. 2097; renumbered § 8103 and amended Pub. L. 102-40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102-83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 103-446, title XII, § 1201(d)(16), Nov. 2, 1994, 108 Stat. 4684.)

#### AMENDMENTS

1994—Subsec. (d)(6)(A). Pub. L. 103-446 substituted "section 316" for "section 230(c)".

1991—Pub. L. 102-40, § 402(b)(1), renumbered section 5003 of this title as this section.

Subsec. (a). Pub. L. 102-83 substituted "Secretary" for "Administrator" wherever appearing.

Pub. L. 102-40, § 402(d)(1), substituted "8104" for "5004" in introductory provisions and "8110(a)(2)" for "5010(a)(2)" in par. (3).