

Subsec. (b)(4). Pub. L. 106-117, §208(c)(1)(B), (D), in introductory provisions, capitalized the first letter of the first word, added subpars. (A) and (B), and struck out former subpars. (A) to (C) which read as follows:

“(A) would contribute in a cost-effective manner to the mission of the Department;

“(B) would not be inconsistent with the mission of the Department; and

“(C) would not adversely affect the mission of the Department; and”.

Subsec. (b)(5). Pub. L. 106-117, §208(c)(1)(B), capitalized the first letter of the first word.

Subsec. (c)(3)(E). Pub. L. 106-117, §208(c)(2), as amended by Pub. L. 106-419, §404(b)(1), substituted cls. (i) and (ii) for former cls. (i) to (iii) which read as follows:

“(i) would contribute in a cost-effective manner to the mission of the Department;

“(ii) would not be inconsistent with the mission of the Department; and

“(iii) would not adversely affect the mission of the Department.”

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-419, title IV, §404(b)(1), Nov. 1, 2000, 114 Stat. 1865, provided that the amendment made by section 404(b)(1) is effective Nov. 30, 1999, and as if included in Pub. L. 106-117 as originally enacted.

§ 8164. Authority for disposition of leased property

(a) If, during the term of an enhanced-use lease or within 30 days after the end of the term of the lease, the Secretary determines that the leased property is no longer needed by the Department, the Secretary may initiate action for the transfer to the lessee of all right, title, and interest of the United States in the property. A disposition of property may not be made under this section unless the Secretary determines that the disposition under this section rather than under section 8118 or 8122 of this title is in the best interests of the Department.

(b) A disposition under this section may be made in return for cash at fair value as the Secretary determines is in the best interest of the United States and upon such other terms and conditions as the Secretary considers appropriate.

(c) Not less than 45 days before a disposition of property is made under this section, the Secretary shall notify the congressional veterans' affairs committees of the Secretary's intent to dispose of the property and shall publish notice of the proposed disposition in the Federal Register. The notice shall describe the background of, rationale for, and economic factors in support of, the proposed disposition (including a cost-benefit analysis summary) and the method, terms, and conditions of the proposed disposition.

(Added Pub. L. 102-86, title IV, §401(a), Aug. 14, 1991, 105 Stat. 420; amended Pub. L. 108-170, title II, §202(b), Dec. 6, 2003, 117 Stat. 2047; Pub. L. 108-422, title IV, §411(e)(3), Nov. 30, 2004, 118 Stat. 2390; Pub. L. 112-154, title II, §211(e), Aug. 6, 2012, 126 Stat. 1181.)

AMENDMENTS

2012—Subsec. (b). Pub. L. 112-154 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “A disposition under this section may be made for such consideration as the Secretary determines is in the best interest of the United States and upon such other terms and conditions as the Secretary considers appropriate.”

2004—Subsec. (a). Pub. L. 108-422 inserted “8118 or” after “rather than under section”.

2003—Subsec. (a). Pub. L. 108-170, §202(b)(1), struck out “by requesting the Administrator of General Services to dispose of the property pursuant to subsection (b)” after “in the property” in first sentence and struck out at end “The Administrator, upon request of the Secretary, shall take appropriate action under this section to dispose of property of the Department that is or has been subject to an enhanced-use lease.”

Subsec. (b). Pub. L. 108-170, §202(b)(2), substituted “Secretary determines” for “Secretary and the Administrator of General Services jointly determine” and “Secretary considers” for “Secretary and the Administrator consider”.

Subsec. (c). Pub. L. 108-170, §202(b)(3), substituted “45 days” for “90 days”.

§ 8165. Use of proceeds

(a)(1) Funds received by the Department under an enhanced-use lease and remaining after any deduction from those funds under subsection (b) shall be deposited in the Department of Veterans Affairs Medical Care Collections Fund established under section 1729A of this title.

(2) Funds received by the Department from a disposal of leased property under section 8164 of this title shall be deposited into the Department of Veterans Affairs Construction, Major Projects account or Construction, Minor Projects account, as the Secretary considers appropriate.

(b) An amount sufficient to pay for any expenses incurred by the Secretary in any fiscal year in connection with an enhanced-use lease shall be deducted from the proceeds of the lease for that fiscal year and may be used by the Secretary to reimburse the account from which the funds were used to pay such expenses. The Secretary may use the proceeds from any enhanced-use lease to reimburse applicable appropriations of the Department for any expenses incurred in the development of additional enhanced-use leases.

(Added Pub. L. 102-86, title IV, §401(a), Aug. 14, 1991, 105 Stat. 421; amended Pub. L. 106-117, title II, §208(d), Nov. 30, 1999, 113 Stat. 1568; Pub. L. 107-217, §3(j)(6), Aug. 21, 2002, 116 Stat. 1301; Pub. L. 108-7, div. K, title I, §113(d)(1), Feb. 20, 2003, 117 Stat. 483; Pub. L. 108-170, title II, §202(c), Dec. 6, 2003, 117 Stat. 2048; Pub. L. 108-178, §4(i)(2), Dec. 15, 2003, 117 Stat. 2642; Pub. L. 108-422, title IV, §411(e)(4), Nov. 30, 2004, 118 Stat. 2390; Pub. L. 112-154, title II, §211(f), Aug. 6, 2012, 126 Stat. 1181.)

AMENDMENTS

2012—Subsec. (a)(2). Pub. L. 112-154 substituted “into the Department of Veterans Affairs Construction, Major Projects account or Construction, Minor Projects account, as the Secretary considers appropriate” for “in the Department of Veterans Affairs Capital Asset Fund established under section 8118 of this title”.

2004—Subsec. (a)(2). Pub. L. 108-422 substituted “Department of Veterans Affairs Capital Asset Fund established under section 8118 of this title” for “nursing home revolving fund”.

2003—Subsec. (a)(1). Pub. L. 108-7 substituted “Department of Veterans Affairs Medical Care Collections Fund established under section 1729A of this title” for “Department of Veterans Affairs Health Services Improvement Fund established under section 1729B of this title”.

Subsec. (a)(2). Pub. L. 108-170, §202(c)(1), struck out “and remaining after any deduction from such funds

under the laws referred to in subsection (c)" after "title".

Subsec. (b). Pub. L. 108-170, §202(c)(2), inserted at end "The Secretary may use the proceeds from any enhanced-use lease to reimburse applicable appropriations of the Department for any expenses incurred in the development of additional enhanced-use leases."

Subsec. (c). Pub. L. 108-178 struck out comma after "of title 40".

Pub. L. 108-170, §202(c)(3), struck out subsec. (c) which read as follows: "Subsection (a) does not affect the applicability of subchapter IV of chapter 5 of title 40 with respect to reimbursement of the Administrator of General Services for expenses arising from any disposal of property under section 8164 of this title."

2002—Subsec. (c). Pub. L. 107-217 substituted "subchapter IV of chapter 5 of title 40" for "section 204 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485) or the Act of June 8, 1896 (40 U.S.C. 485a)".

1999—Subsec. (a)(1). Pub. L. 106-117 added par. (1) and struck out former par. (1) which read as follows: "Of the funds received by the Department under an enhanced-use lease and remaining after any deduction from such funds under subsection (b), 75 percent shall be deposited in the nursing home revolving fund established under section 8116 of this title and 25 percent shall be credited to the Medical Care Account of the Department for the use of the Department facility at which the property is located."

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-178 effective Aug. 21, 2002, see section 5 of Pub. L. 108-178, set out as a note under section 5334 of Title 5, Government Organization and Employees.

§ 8166. Construction standards

The construction, alteration, repair, remodeling, or improvement of a property that is the subject of an enhanced-use lease shall be carried out so as to comply with all applicable provisions of Federal, State, and local law relating to land use, building standards, permits, and inspections.

(Added Pub. L. 102-86, title IV, §401(a), Aug. 14, 1991, 105 Stat. 421; amended Pub. L. 108-422, title IV, §417, Nov. 30, 2004, 118 Stat. 2393; Pub. L. 112-154, title II, §211(g), Aug. 6, 2012, 126 Stat. 1181.)

AMENDMENTS

2012—Pub. L. 112-154 amended section generally. Prior to amendment, section read as follows:

"(a) Unless the Secretary provides otherwise, the construction, alteration, repair, remodeling, or improvement of the property that is the subject of the lease shall be carried out so as to comply with all standards applicable to construction of Federal buildings. Any such construction, alteration, repair, remodeling, or improvement shall not be subject to any State or local law relating to land use, building codes, permits, or inspections unless the Secretary provides otherwise.

"(b) Unless the Secretary has provided that Federal construction standards are not applicable to a property, the Secretary shall conduct periodic inspections of any such construction, alteration, repair, remodeling, or improvement for the purpose of ensuring that the standards are met."

2004—Subsec. (a). Pub. L. 108-422 inserted "land use," after "relating to" in second sentence.

§ 8167. Exemption from State and local taxes

(a) IMPROVEMENTS AND OPERATIONS NOT EXEMPTED.—The improvements and operations on

land leased by a person with an enhanced-use lease from the Secretary shall be subject to all applicable provisions of Federal, State, or local law relating to taxation, fees, and assessments.

(b) UNDERLYING FEE TITLE INTEREST EXEMPTED.—The underlying fee title interest of the United States in any land subject to an enhanced-use lease shall not be subject, directly or indirectly, to any provision of State or local law relating to taxation, fees, or assessments.

(Added Pub. L. 102-86, title IV, §401(a), Aug. 14, 1991, 105 Stat. 421; amended Pub. L. 112-154, title II, §211(h), Aug. 6, 2012, 126 Stat. 1181.)

AMENDMENTS

2012—Pub. L. 112-154 amended section generally. Prior to amendment, section read as follows: "The interest of the United States in any property subject to an enhanced-use lease and any use by the United States of such property during such lease shall not be subject, directly or indirectly, to any State or local law relative to taxation, fees, assessments, or special assessments, except sales taxes charged in connection with any construction, alteration, repair, remodeling, or improvement project carried out under the lease."

§ 8168. Annual reports

(a) REPORT ON ADMINISTRATION OF LEASES.—Not later than 120 days after the date of the enactment of the Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012 and not less frequently than once each year thereafter, the Secretary shall submit to Congress a report identifying the actions taken by the Secretary to implement and administer enhanced-use leases.

(b) REPORT ON LEASE CONSIDERATION.—Each year, as part of the annual budget submission of the President to Congress under section 1105(a) of title 31, the Secretary shall submit to Congress a detailed report of the consideration received by the Secretary for each enhanced-use lease under this subchapter, along with an overview of how the Secretary is utilizing such consideration to support veterans.

(Added Pub. L. 112-154, title II, §211(i)(1), Aug. 6, 2012, 126 Stat. 1181.)

REFERENCES IN TEXT

The date of the enactment of the Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012, referred to in subsec. (a), is the date of enactment of Pub. L. 112-154, which was approved Aug. 6, 2012.

PRIOR PROVISIONS

A prior section 8168, added Pub. L. 102-86, title IV, §401(a), Aug. 14, 1991, 105 Stat. 421, limited number of enhanced-use leases that could be entered into under this subchapter, prior to repeal by Pub. L. 105-114, title II, §205(b)(1), Nov. 21, 1997, 111 Stat. 2288.

ELEMENTS OF INITIAL REPORT

Pub. L. 112-154, title II, §211(i)(2), Aug. 6, 2012, 126 Stat. 1182, provided that: "The first report submitted by the Secretary under section 8168(a) of title 38, United States Code, as added by paragraph (1), shall include a summary of those measures the Secretary is taking to address the following recommendations from the February 9, 2012, audit report of the Department of Veterans Affairs Office of Inspector General on enhanced-use leases under subchapter V of chapter 81 of title 38, United States Code:

"(A) Improve standards to ensure complete lease agreements are negotiated in line with strategic goals of the Department of Veterans Affairs.